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CIS

TAXPAYER SAFEGUARDS

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

APRIL 26, 1982

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TAXPAYER SAFEGUARDS

MONDAY, APRIL 26, 1982

House of Representatives,
Committee on Ways and Means,
Subcommittee on Oversight,
Washington, D.C.

The subcommittee met, at 10 a.m., pursuant to notice, in room 1100, Longworth House Office Building, Hon. Charles B. Rangel (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

[Press release of Tuesday, April 6, 1982]

Hon. Charles B. Rangel, Chairman, Subcommittee on Oversight, Committee on Ways and Means, Announces Hearing on Taxpayer Safeguards

The Honorable Charles B. Rangel (D-N.Y.), Chairman of the Ways and Means Subcommittee on Oversight, announced today that a hearing will be held on Monday, April 26, 1982, to examine the question of whether the administrative policies and procedures employed by the Internal Revenue Service in carrying out the tax laws are consistent with those laws and effectively assure the substantive and procedural rights of taxpayers. The hearing will begin at 10:00 a.m. in Room 1100 Longworth House Office Building.

BACKGROUND

This hearing is being conducted as part of the Subcommittee's ongoing investigation of issues and problems that Members of Congress and individual taxpayers have brought to the Subcommittee's attention. One issue of particular importance that will be addressed during the hearing is whether the Service has engaged in any specific actions or pursued any specific policies in the performance of its responsibilities which have exceeded its authority under the law or which have resulted in the inequitable or arbitrary treatment of taxpayers.

Under the internal Revenue Code, IRS is authorized to assess and collect taxes due the Federal Government. Although the Code provides general guidelines and various specific procedures to be followed by the Service in performing these functions, the Service is authorized to issue such additional guidelines and procedures as are necessary to implement the law. In accordance with this statutory authority, IRS has issued numerous policy and procedural statements, guidelines and rulings which are intended to govern the manner in which the Service and all its employees are to process taxpayer cases and responsibly deal with individual taxpayers.

"The Congress has granted the Internal Revenue Service extensive powers for the purpose of administering the tax laws," stated Chairman Rangel. "It is imperative, therefore, for the Congress to continuously monitor the policies and procedures of the Service in order to assure that these laws are properly administered and that taxpayers are treated fairly and equitably."

Testimony to be presented at this hearing will focus on a wide range of IRS examination and collection practices that concern taxpayers, as well as the management of taxpayer complaints. Issues to be discussed will include various collection practices such as liens, levies and seizures; the use of the administrative summons provision; the adequacy of current notice provisions; the operation of the appeals process; and the Service's mechanisms for handling and resolving taxpayer complaints and allegations of "abusive" conduct by IRS agents.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD

Cutoff date for requests to be heard.—Request to be heard must be submitted no later than the close of business Thursday, April 15, 1982.

All requests should be submitted in writing to John J. Salmon, Chief Counsel, Committee on Ways and Means, 1102 Longworth House Office Building, Washington, D.C. 20515. Notification will be made as promptly as possible after the cutoff date as to the scheduled appearance of each witness.

In view of the heavy schedule of the full Committee and the Subcommittee, and the limited time available for the taking of testimony, it will be necessary to allocate the time available to each witness for the presentation of direct oral testimony to five minutes. If requests to be heard exceed the amount of time available to the Subcommittee, it may not be possible to schedule everyone; however, every effort will be made to accommodate as many as possible. (Where a witness cannot be scheduled, the Subcommittee will accept a written statement for inclusion in the printed record of the hearing in lieu of a personal appearance.) If several witnesses wish to present similar testimony, they may be asked to select one spokesman for the group or have their testimony consolidated in some other way.

Written Statement in Lieu of Personal Appearance.—The Subcommittee will accept from any interested organization or person a written statement for inclusion in the printed record of the hearing in lieu of a personal appearance. These statements will be given the same full consideration as though the statement had been presented in person. In such cases a minimum of five copies of the statement should be submitted by the close of business June 1, 1982.

Contents of Request to be Heard.—The request to be heard must contain the following information:

(1) The name, address, telephone number and capacity in which the witness will appear; (2) a list of persons or organizations the witness represents or in whose employ the witness appears; and (3) a topical outline or summary of the testimony the witness proposes to present.

Witnesses scheduled to appear before the Subcommittee are required to submit 50 copies of their prepared statement to the Committee office, Room 1102, Longworth House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to comply with this requirement may result in the witness being denied the opportunity to testify in person.

The Subcommittee reserves the right to refuse to publish statements that contain taxpayer return or return information as proscribed by Internal Revenue Code Section 6103.

Chairman RANGEL. The Oversight Subcommittee of the Committee on Ways and Means will come to order.

We have our distinguished member, John Duncan, sharing in these hearings. We expect other members.

The purpose of our hearing today is twofold. First, we want to examine those complaints taxpayers and members have about the manner in which the Internal Revenue Service is administering the tax laws.

Since its creation in 1975, the Oversight Subcommittee has established a tradition of actively monitoring the Internal Revenue Service with a view toward easing the often frustrating taxpayer experiences of filing tax returns, submitting to audits of their returns and paying delinquent taxes.

In addition, the subcommittee has assumed the responsibility for evaluating complaints that have to do with allegations of taxpayer harassment or IRS abuse of authority in order to determine whether there is need for corrective legislative or administrative action.

A second purpose of this hearing is to review the existing policies and procedures of the Service with respect to audit, appeal, and collection activities, and to assure that the Service is adhering scrupulously to practices designed to safeguard taxpayer rights.

It is a matter of fundamental importance to the success of our tax system that the public be confident that the IRS treats all taxpayers fairly and equitably, and that it does so in accordance with clearly established policies and procedures.

These two purposes are, of course, closely related. Reviewing specific complaints helps us to determine whether there is a need to refine or modify existing policies. This also helps us to verify the adequacy of policies where the Service itself has taken corrective action or where the events complained of represent individual departures from policies that are otherwise entirely appropriate and responsible.

It is most important to ascertain what the general pattern of practice is since that is what we must deal with if we are to assure the responsible administration of the law.

All of this is not to say that serious problems don't exist or that individual breakdowns or abuses have not occurred. Indeed, this hearing is being conducted, in large measure, due to the overwhelming requests by Members of Congress urging this committee to examine specific practices of the IRS toward some of their constituents.

Many of the taxpayers who will be testifying this morning were referred to the committee by those members. It would surprise me, given the size and authority of the Service, if some of these breakdowns and abuses did not occur.

That is why we are here today, to find out what kinds of problems exist, how serious they are, and what kinds of corrective action might be taken.

The administration of our tax code is a sensitive task. No one understands this more clearly than the Service itself. I am certain the Commissioner and his staff fully realize the seriousness and importance of these hearings and what comes after them when we have examined the evidence arrived at and presented our conclusions.

I will expect the Service to cooperate fully with the subcommittee, as it has in the past, in resolving any problems that may be disclosed in the course of these proceedings.

I want to also mention at this point that the Internal Revenue Code does not permit the public discussion of a particular taxpayer's case unless the taxpayer expressly consents to it. As a result, I want to caution all who will testify that written consent must be furnished to the subcommittee before it will be possible for members of the subcommittee or the Service to engage in discussion of a taxpayer's case.

Further, the subcommittee will not publish testimony about a particular taxpayer unless that taxpayer has furnished a written consent to the subcommittee to do so.

I emphasize that the purpose of these measures is to assure the taxpayer's right to privacy and to permit him to control the discussion as to whether any information about his case is to be made a matter of public record.

[Mr. Crane submitted the following:]

OPENING STATEMENT OF HON. PHILIP M. CRANE

Mr. Chairman, the hearing we are having today is noteworthy. Oversight of the Internal Revenue Service and the manner in which they collect the taxes for the nation is one of the most important and fundamental responsibilities of our committee jurisdiction. It is crucial, therefore, that we fairly and objectively examine IRS practices and policies.

This is especially so because of the furor that they have caused in recent years. Overzealous seizure of property without due process and unnecessary snooping into the affairs of individuals and organizations are merely two of the numerous complaints that have come to my attention.

There can be no question taxes must be paid. This is a basic duty of citizenship. However, for honest men and women to be afforded fewer rights at times than common criminals is an injustice which should not be allowed to occur. Let us hope that today's hearing will uncover some of the causes of the complaints which we have heard and that we may advise Congress of possible reforms necessary to deal with them.

Chairman RANGEL. Mr. Duncan?

Mr. DUNCAN. Thank you, Mr. Chairman.

I have no opening statement, but may I recognize a group of high school students from a high school in Knoxville, my hometown, somewhere in the room.

Chairman RANGEL. Let me join with you and welcome these young people to listen to our deliberations. I do hope that life is so successful for them that they will make a lot of money, but never have to be harassed by the IRS.

Mr. DUNCAN. Thank you, Mr. Chairman.

Chairman RANGEL. Welcome to the deliberations.

Congressman Don Young, who has demonstrated a sensitive concern about the problem of taxpayer abuse, has agreed to lead off our testimony today.

Your full statement, Congressman, will be made a part of our record. You may proceed as you find most comfortable.

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Mr. YOUNG. Thank you, Mr. Chairman, and members of the committee. I would like to submit my prepared statement to the committee for the record, and, with your permission, I will summarize that statement at this time.

Chairman RANGEL. Without objection.

Mr. YOUNG. Let me compliment you. You are a new chairman of this subcommittee, from the last time I appeared before this subcommittee for oversight hearings on the IRS. I believe that oversight hearings are very beneficial and are necessary to recognize that there is definitely a problem within the American citizenry today concerning the attitude and conduct of the IRS.

Historically, no one approves of the tax collector. This goes clear back into the period of time of King George when the kings and their collectors put forth into the field against citizen protest to collect grains to fill their granary. Even before that time, there has been conflict between tax collector and taxpayers.

Because of this conflict and because the IRS has extraordinary powers, oversight of tax collection is important. Until 1975, I do not believe the Congress had any oversight hearing concerning the conduct of the IRS. There have only been two hearings since 1975.

I congratulate you for holding this hearing. I believe it is necessary any time an agency is created by the Congress. If Congress shows lack of interest they do become somewhat zealous in their approach to the collection of taxes.

We have all heard about the hidden economy, the barter system, the loss of taxes. I truly believe much of that is caused by the previous attitude of some IRS officials. Today, the attitude of the IRS in their conduct toward the taxpayer is improving.

I think it is important that we must recognize that most Americans do try to pay their taxes legitimately. Unfortunately, the legitimate taxpayer, 90 percent of the time, is the one that—yes, you said it—is harassed by the IRS, is actually intimated by the IRS, and is put in a position of being cowed and looked upon as an underling and not as truly a taxpayer.

I think it is time that this Congress—and I hope these hearings will bring this forth—try to help the IRS in passing laws that protect the taxpayer, to require the IRS to follow, as other agencies do, legitimate judicial processes—for example, in the seizure of property—by having to have court orders, having to legitimately explain why they audit over and over and over and over in the cases I can mention.

Mr. Chairman, I have many cases—there are three here I could discuss—but if you wish to have these cases discussed by the staff, we can obtain written permission to discuss them at a later date.

They are classic examples of misuse of the IRS agents in the field.

Chairman RANGEL. Let me make it clear, Congressman, that this subcommittee feels that we have a responsibility, wherever a member has received written consent of the taxpayer, to get answers and to expedite those answers.

We have been assured by the IRS that they would welcome the opportunity. So, you can make it clear to those people that if they do want oversight provided and to make certain that we are not violating their rights to privacy, we will be glad to assist you and them.

Mr. YOUNG. I thank you again for that offer of help. We have expressed a desire from this committee to many of our constituents.

First, it may seem strange to you, being a single member from the great State of Alaska, who represents probably the largest district in the whole world, why I am so interested in these issues. Up until recently we were the State most audited and had the highest rate of seizures—illegally, I say—by the IRS.

Because of my great workload concerning this interest by the taxpayers of Alaska, I became very interested. Through that interest I have found out, yes, there have been some very inappropriate actions by the IRS.

To give the IRS credit, many times they came back and said there was an overaction by the agent and there have been corrections.

I only ask this committee to consider there are many cosponsors of legislation to establish a taxpayer bill of rights. Consider the advantage it would give to the tax agency itself in collecting the taxes and the effect upon that agency knowing full well under the law of this Congress there would be some restriction.

I want to stress again there have been too many cases of seizure of property, the seizure of the bank accounts, the locking of businesses, the great cost of stress to that taxpayer himself, without due process of law.

Now, there are numerous cases within the State of Alaska, and across the great United States, where IRS harassment cost that individual his business, his acceptance in the neighborhood, when in fact he was never guilty of any infraction.

I have never understood how the IRS could go through the whole appeal process, find out that the taxpayer himself was innocent of any wrongdoing and, in fact, tell him "we are sorry, we made the mistake," but not pay for cost incurred. In the meantime, the taxpayer has paid a considerable amount of money to the CPA, the lawyer, and endured the stress and strain and frustration on himself, the agony, and not being accepted in the community because he is under investigation by the IRS.

There are numerous bills in this Congress that would relieve that pressure from the IRS, still allow them to collect their taxes, and would go after the taxpayer that is illegally not paying his taxes.

I want to stress that again. I don't believe I have got but one or two letters from people who were illegally evading their taxes. These are from law-abiding citizens in cases where they were misused, abused, intimidated and under the guise of trying to collect the taxes for Uncle Sam.

I want to stress the idea of the hidden taxes are being lost, much of that is through the attitude of the IRS. I have urged them in the past to correct these mistakes, and they have been receptive of my suggestions.

If they will not, through administrative process, adopt a policy of fairness, of being more careful in their pursuit of collecting the taxes from the legitimate taxpayer, then I think it is up to this Congress to do so.

I think it would be important to the IRS to protect themselves. For example, sometimes the IRS will audit an individual time after time. Although it has cost that individual money, there is no cost to the IRS. Why not let that individual collect court costs and the cost of the CPA if there is, in fact, no infraction by the taxpayer?

Since when does the United States have the opportunity to persecute and prosecute and harass and intimidate a citizen of the United States? Not under the code that I consider this United States should go under.

That summarizes my statement at this time. I would gladly answer any questions concerning the great problem that I see concerning the tax collectors of the great United States.

[The prepared statement follows:]

STATEMENT OF HON. DON YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALASKA

Thank you, Mr. Chairman, I appreciate your consideration in inviting me to testify during these hearings. I welcome the effort you and other members of the subcommittee are making to increase oversight of the activities of the IRS.

THE NEED FOR OVERSIGHT

For several years, I have been saying that those of us in Congress must take a closer look at the actions of the IRS. The IRS has too much power and discretion under the law to be allowed to operate without close congressional supervision. As the members of this subcommittee know, oversight hearings are necessary to insure that Federal agencies are acting as Congress intended them to. If any agency is not required to account for its actions to Congress, it will begin to abuse its authority. Because there have been abuses by the IRS, the rights of all taxpayers are now in danger.

ALASKAN ATTITUDE TOWARD THE IRS

In my State of Alaska, many taxpayers already feel that the IRS has become an agency above the law. I have heard from many constituents who have experienced problems with the IRS which go far beyond the usual problems with tax collection. I have records of numerous cases of taxpayers who have been denied fair treatment by the IRS. These are honest law-abiding taxpayers who were not trying to evade taxes. I am convinced that these citizens were making good faith efforts to comply with the tax laws but were abused by the power of the IRS and the Gestapo-like tactics used by some agents. Here are some examples of the arbitrary use of heavy-handed power by the IRS:

A few years ago, a woman in Fairbanks was pulled through the broken window of a car which IRS agents smashed to seize the car.

A 23-year-old construction worker in Fairbanks has been audited every year since he was 16 years old. Seven straight years of going through the cost and frustration of an audit without any audit turning up a problem with the tax return.

An elderly religious broadcaster in Alaska who went to the IRS to ask the right way to report income from the broadcast operations, which was a part-time activity. The taxpayer was given the wrong advice by the IRS and was later audited and assessed $70,000 in unpaid taxes. This amount was more than one year's worth of the income for the taxpayer, which he was given 30 days to pay.

There are numerous other examples of being denied basic fairness where the IRS has demanded immediate payment of taxes, refusing to accept reasonable installment agreements.

Where the IRS has issued retroactive ruling which have penalized taxpayers which relied on previous IRS rulings, where the IRS has subjected members of legal tax information groups to blanket audits solely because of membership in the group, where the IRS has seized property, frozen bank accounts and closed businesses unnecessarily and without court orders.

This type of treatment of law-abiding Americans must cease. Without action by this Congress, abuses will continue and the underground economy will continue to grow as more otherwise law-abiding Americans are driven into it by the complexity to the Tax Code and fear of the IRS. This Congress must act, through oversight and substantive legislation, to protect the basic rights to fairness which are a part of our system of justice. So, I welcome this hearing as a good first step in resolving some of the problems which taxpayers have experienced. I hope that there will be further hearings to follow up on the questions raised here.

NEW LAWS NEEDED TO PROTECT TAXPAYERS

Even more important than oversight hearings is the need for substantive legislation restricting the powers of the IRS. As the members of the subcommittee know, there are few limits under current law on the collection methods which can be used by the IRS. Now law prohibits the IRS from seizing property without a court order, no law protects taxpayers from being subjected to audits year after year when there is no serious problem with the return, no law gives the taxpayer any protection of counsel or the right to record during an audit, no law prohibits the IRS from changing its interpretation of tax laws and retroactively assessing unpaid taxes on taxpayers who relied on the previous ruling. There are simply too many areas of the tax collection process where the taxpayer has no legal protections and is at the mercy of the IRS.

One example of the lack of legal controls on the IRS which I mentioned is the authority given to the IRS to seize property without a court order. There is no reason to exempt the IRS from the constitutional requirement that a citizen can not be deprived of property without a court hearing to determine the Government is acting properly. There is no reason to allow an IRS agent to freeze bank accounts or shut down a business without allowing the taxpayer a day in court. When property is seized, people suffer. In recognition of this and the need to protect citizens from clear abuse by the Government, the fourth amendment should be applied to tax seizures.

To close this loophole in the law, I have introduced legislation which would require a court order before property could be seized for the payment of income taxes.

This legislation would provide a legal standard which is consistent with the Constitution and would protect taxpayers from seizures which do not comply with the law. The bill has bipartisan support and I am hopeful that the legislation will receive favorable consideration by this committee in the near future.

I have also been working with other Members of Congress and groups to develop further legislation to establish taxpayer protection standards as a matter of law. The legislation would establish legal rights a taxpayer could rely on in dealing with the IRS. It is designed to protect the taxpayer who is making a good faith effort to comply with the tax laws and who should not be put at the mercy of the IRS.

I will be taking a close look at the results of this hearing to determine if some of the problems which would be addressed by this legislation have been resolved. I believe that taxpayers are entitled to fair, consistent, and reasonable treatment by the IRS. They should not be subjected to continuous and repetitious audits and investigation. They should be entitled to rely on the advice given by the IRS. They should have legal rights during examinations and should be entitled to a basic presumption of innocence. If these rights can not be accepted by the IRS as part of administrative practice, then the Congress should enact legislation to establish the rights as a matter of law.

Mr. Chairman, I believe the time has come for Congress to increase its vigilance to ensure that rights of Americans as citizens and taxpayers are not being taken away by the arbitrary use of power by the IRS. With this in mind, I look forward to working with you, the other members of the subcommittee and our colleagues in the House of Representatives to protect the rights that all American taxpayers are entitled to.

Thank you.

Chairman RANGEL. Congressman Young, have you had an evaluation of your proposed legislation yet from IRS?

Mr. YOUNG. Yes. However, the evaluation, to my knowledge, is not acceptable at this time. They claim it will take away their ability to pursue and collect taxes. My argument is it does not. It makes them do a better job.

You recognize that it has been asked that we have 3,000 new agents to be hired by the IRS to collect the taxes. I honestly think if we are going to do that, there should be a policy set forth where they, in fact, are protected. It would make them a more careful agency, not an agency that can go out and intimidate the taxpayer.

Again, I want to stress that it is not the illegal taxpayer that is suffering the brunt of the zealots of the IRS itself. It is the taxpayer trying to pay his taxes, where they go to the IRS and ask for information, the IRS gives them the information and later on, that citizen, acting in good faith, utilizes that information to fill out his form and later on the IRS says no, the information is incorrect. You owe us more taxes.

What kind of action is that? If the IRS gives you information, they should live by that information. If they don't, they should pay for the misinformation they gave the taxpayer himself.

Let's say someone says I owe so many dollars in taxes and there is a dispute. I own a small business. They can seize my property right now; before any hearing, before any appeal, seize the property, shut my business down and say, until you pay, you cannot get back into your business without court order.

Now, their argument is the taxpayer can appeal. But who do you appeal it to? The business is already shut down. What is that going to cost you in business lost?

There are many, many cases that happened like this. If there were a taxpayer bill of rights, the IRS would have to follow more stringent rules. Then, I believe they would be protected themselves and, in fact, they would do a much more careful job.

Right now, who does police the IRS? Can an individual recoup his moneys for auditing? No. Can an individual recoup his cost for anything the IRS requires him to do? No.

What other agency has that prerogative? That is what I am saying. What other agency? None.

Chairman RANGEL. Thank you.

Mr. Duncan?

Mr. DUNCAN. Thank you, Mr. Chairman.

I want to thank our colleague. He has certainly been one of the more active Members of the House on this subject, and I know that a lot of us depend upon you for your input into this real problem that we are faced with. I thank you for your great contribution today.

Mr. YOUNG. Thank you, Mr. Chairman, members of the committee.

Chairman RANGEL. Thank you. The committee will look at your legislation, and I personally will be back in touch with you.

Thank you, Congressman.

Mr. YOUNG. Thank you.

Chairman RANGEL. The next witness is Congressman George Hansen, who has written many publications and newsletters and been very active in this area. He has a broad constituency of American citizens that believe they have been abused, and these hearings are called in a great part to the concern that he is demonstrating, not only to members of this subcommittee, and to the full committee, but to his other colleagues in Congress.

I am glad that we are able to finally arrange to have these hearings at a time that is convenient for you and the subcommittee.

Mr. Duncan, I think you indicated you wanted to welcome him?

Mr. DUNCAN. Yes, I welcome you to the committee, and look forward to your usual interesting and exciting testimony.

STATEMENT OF HON. GEORGE HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mr. HANSEN. Thank you, Mr. Duncan, thank you, Mr. Chairman.

Mr. Chairman, I appreciate very much your holding these hearings and also the way that you have extended, in your new chairmanship, the opportunity for the people themselves to go into their problems of dealing with the IRS.

I particularly thank you and the members of this subcommittee for affording this opportunity for me to express the grave dissatisfaction and resentment by a growing number of people over the heavyhanded activities of the U.S. Internal Revenue Service in their tax collection program.

Let me preface my remarks by noting that I have compiled a dossier illustrating the type of protests I have been receiving in my office from all over the country, protests regarding a great variety of unacceptable and abusive practices by the IRS. That has been made available today to each member of the subcommittee. I hope that you gentlemen have it there. There are two folders, plus the testimony.

I propose to touch on some of this material in my testimony, but the sheer volume of these complaints makes full and adequate treatment impossible in so short a time. My statement is based upon my twin obligations as a Member of Congress to represent and protect the people of my State and to work for the best interest of all America, and also as chairman of the Association of Concerned Taxpayers, a grassroots organization dedicated to reform of the collection practices of the IRS.

My reasons for being here began in 1976 with the unacceptable IRS behavior in arbitrarily extracting capital gains taxes from Federal reimbursements to flood victims of the $400 million Teton Dam disaster in Idaho. I guess I am a little like Mr. Young, the interest in IRS problems comes from problems in my own district.

This scene set in motion a torrent of events almost too shocking to believe. My ad hoc inquiries uncovered IRS hit lists, snooping and spying operations, political retaliatory audits and investigations coupled with election year leaks to the press, arbitrary assessments and seizures for punitive rather than tax collection purposes, and a fully planned operation to conduct an armed door-to-door shakedown of one of my small cities.

Needless to say, as my inquiry progressed, it came to have consequences of its own, political retaliation against a nosey Congressman. Inaccurate tax information from my personal files was illegally given by IRS officials to my political opposition in the final days of the 1976 general election—a fact confirmed later by an IRS officer who voluntarily confessed his part in the activities and by other IRS employees shocked at the blatant activities of certain IRS administrators in attempting to rig the outcome of the Federal election.

Further inquiry into complaints of IRS abuses continued to produce shocking results—it was really happening, and on a wholesale basis, and in all areas of the Nation. Until I began to receive large-scale complaints and admissions by IRS agents themselves and the multiplying testimony of constituents and friends across the Nation whom I had known all of my adult life, I too had shrugged off complaints against the IRS as unrelated and unintentional mistakes or as the natural resentment of people to paying taxes.

In fact, for many years I resisted any idea that the IRS would be systematically involved in a mass intimidation program of the American public. But now the complaints are too numerous, too credible, too well documented to continue to accept the word of IRS witnesses who have for decades been parading to Capitol Hill to simply lie to this committee and others—to tell all who would listen that the complaints of IRS abuses were those of disgruntled malcontents, and lately to try to sell the idea that everyone who complained was a "tax protester."

Unfortunately until now, the IRS has succeeded in turning the chorus of complaints into a reason for ever-tightening statutes and regulations, and more enforcement agents, thereby heaping more abuse on the already outraged taxpayer.

Now let me make a few points about this IRS technique of categorically damning any taxpayer who complains. First, and most important, any protest at all in the area of tax collection must be viewed with the greatest care—especially since those who voice it know in advance that the IRS is notorious for punishing those who raise their voices in complaint.

When a citizen complains about the Service, he knows that he does it under the expectation that he will pay the price to the IRS. Yet despite that, the volume of protest has risen to a crescendo. A common characteristic of the mail I receive in protest of IRS behavior is that many of the writers who indignantly pass on their horror stories express fear of retaliation and ask for anonymity. Others announce that they know the cost of defying the IRS "code of omerta" and speak anyway.

The volume and intensity of these complaints bespeak a situation which simply cannot any longer be shrugged off.

Now, there is a second point which must be made clear at the outset. Many of these complaints are made by people who do in fact fail to pay income taxes. As a lawmaker, I certainly do not condone lawbreaking and nonpayment of taxes. Every citizen should bear his fair share of the cost of Government. But I do say that tax protest and even tax evasion, as well as any other apparent violation of the law, does not remove from people their right to fairness and the procedural due process of law.

However, the philosophical protester and the taxpaying complainer with a legitimate problem are not getting that fairness or due process—and, in fact, they are generally considered as tax evaders and enemies of the IRS with guilt and punishment predetermined and enforced by the IRS itself.

The rapidly increasing number of complaints must raise a question in our minds. Twenty, or even ten, years ago, such a volume of complaint would have been unthinkable. Could they be sending us a warning that the American people are no longer willing to tolerate abuse from the tax collector? Have the yoke of excessive taxation and wasteful spending, and the whip of brutal collection practices at last become too much for them to tolerate? The numbers say yes.

The IRS tells you that the number of tax resisters is increasing yearly and that, given only more oppressive laws and more men to track down these terrible people, they can solve the problem. A moment's reflection will tell you that such a claim is nonsense—yet we in the Congress have continued to blindly listen to the IRS and ignore the people.

The IRS is like the man whose large car was hopelessly mired in a ditch and he was found by a passerby to have yoked a small dog to the front of the car. When he was asked how he could expect a tiny dog to pull that huge car out of the ditch, the owner's response was, "Don't worry. I've got a long whip." It is absurd, but that is what is going on.

Other numbers give us the real dimensions of the problems. IRS tells us that the so-called underground economy is running at $180 to $200 billion a year, depending on which ax-grinding speculator is testifying. An economist at the University of Wisconsin puts the figure at $500 billion and recently an economist at a leading eastern university puts the untaxed economy at a trillion dollars. What is clear is that the sum is staggering and that no one knows for sure how large it really is.

Members of the committee, in the past 2 years, I wrote a book, basically simply telling the worst of the horror stories which could be verified by one Congressman with the limited staff at his disposal. The abuses I include in that book horrified me. Yet I watched the IRS tell the Congress that whatever truth there was to these taxpayer narrations was irrelevant because the IRS had since recognized that such practices were not right and that they had cleaned their own house and such things could not and would not happen again.

But the complaints kept rolling in and time after time I found that in this as in so many other matters, the IRS was committing objective perjury.

One example will make my point. In 1977 there was a great furor of indignation when reports of an incident in my colleague Congressman Don Young's State of Alaska made the national press. A young and pregnant woman who had locked herself in her car had been subjected to assault by the collection agents of IRS who smashed the side window of the car, showering her with glass and dragged her through that broken window. Pictures of the agents using clubs on the car were widely circulated. The IRS could not deny the incident, so the Congress was told that this was an isolated incident and that the manual had been revised to forbid such conduct in the future.

But such acts of violence did not stop there. In 1981, during a strike by a score of armed IRS agents in Craig, Colo., a small town in the northwest corner of the State, a young lady drove into town from her home in the outlying suburbs. When she stopped on a narrow side street, she was dragged from her car by IRS agents, who without showing any authority of any kind, drove off with the car, leaving her stranded. To make the parallel complete, she too, was several months pregnant.

The incidents are strikingly similar and, coupled with other similar parallelisms, certainly raise questions about the good faith of IRS officials whose statements clearly fail to square with the facts.

For years the IRS has conducted activities contrary to what it tells Congress and an example I have just cited is only a hint of the cloud of misrepresentation with which the IRS surrounds itself. This was further borne out recently when the IRS asked for an increase in its budget in order to hire 7,000 more collection agents. Such generosity was to be rewarded, we are told by IRS Commissioner Egger, with a flow of between $78 and $90 billion from recoveries from dishonest taxpayers.

We were also advised from the same source that the entire underground economy was only $200 billion and would produce only $30 billion in unpaid taxes. I urge the members of the committee to apply the same standards of commonsense to such allegations as we normally apply to all other matters.

It is in some measure as a response to the heavyhanded approach of the IRS that the underground economy exists at all. The facts clearly demonstrate that continuously applying more coercive force in our voluntary personal income tax system has only served to worsen the problems of hidden cash economics, tax resistance, and the decline of public confidence in the Government of the United States in this and other areas.

This is alarmingly demonstrated by recent figures contending that uncollected annual U.S. Government revenues from the underground economy have moved in recent years from $30 billion to

$95 billion, with an expected $150 billion by 1985—a trend which has to engender some concern that the current method of assessing and collecting income taxes is collapsing.

It is in the context of the false political assumption, that the public's adverse response to the amount and manner of collection of taxes is a peripheral issue, that I must strongly state my belief that the abuse of the taxpayer by the IRS and the formulas of apportioning the burden of taxation are indeed central to the problems of financial solvency of the Federal Government.

Even the IRS cannot repeal the law of diminishing returns. The greater the coercion, the more the people are withdrawing into the unrecorded segment of the economy.

LIMITATIONS ON WITNESSES

Mr. Chairman, I hope by now this committee is convinced that there is a grave problem in the methods used by the IRS in collecting the taxes imposed by the Congress—methods which pose a real danger to the free society we have enjoyed until now. I am convinced, based upon my own research and upon the flood of complaint mail which I have been receiving for the past 2 years since people across the Nation became aware of my probe into IRS abuses, that the gravity of the problem is accelerating and that the reaction to increased IRS pressure has been and continues to be an expanding resistance by citizens to the methods used by the tax collector.

With that situation in mind, and as you know, Mr. Chairman, I have pressed this subcommittee for some time to launch an investigation and to hold hearings at which people could inform the members of their own unhappy experiences with the IRS. At the risk of appearing ungrateful for this hearing, let me again voice my view that 1-day hearings which limit witnesses to a few minutes of testimony are really not adequate to reach an understanding of the depth of popular revulsion to IRS excesses and consequently the need for limitations on the techniques of collecting taxes.

Despite clear signals from the people that the tolerance point has been reached and exceeded, the Congress continues year after year, either explicitly or by ignoring the complaints of the people, to not only countenance these excesses, but to worsen them. We need only look at the shelves of any reasonably equipped library to realize the depth of the problem.

Title 26, the Internal Revenue Code, is in three volumes in West's United States Code Annotated [USCA]. The regulations in the Code of Federal Regulations [CFR] run to 10 volumes. By contrast, the entire Criminal Code fits in only one volume and includes every crime one can commit against the United States.

Since the time of Plato, philosophers have told legislators that there are certain requirements for positive law. The first is that the source of the law must be certain. Is all this, and I say "law" that the citizen is victimized by, enacted by Congress or is it formulated by the IRS? In many cases the taxpayer rightly suspects that the Congress had nothing to do with the laws he must obey in tax matters.

The other crucial element of law is that it be clear, that it be easily comprehensible to the person within its jurisdiction. I certainly do not need to remind my colleagues of their comprehension of the tax law. And yet none of us would propose that our constituents are generally better informed than we on these same laws.

The combination of arbitrary law enforcement and a complexity so great that not even the tax lawyer or the accountant will guarantee that returns, prepared in good faith and with every attempt to obey the law, will pass muster with IRS can only breed contempt for the law. In fact, many people have complained to me that the tax collector has openly and brazenly stated that the tax law is just what the IRS says it is.

When the complexity of law is compounded with an arbitrary use of power, can we really be surprised that the people are finally rebelling? I cannot overemphasize the necessity for this committee to listen attentively to the complaints presented here today, and study both the oral statements and the written material submitted by desperately concerned people who could not afford to come thousands of miles for the futility of a 5 minute appearance.

However, for those who are able to testify personally, I appreciated receiving the chairman's recent letter assuring that a waiver of the rights of a witness will not be required. Certainly, it would be a bizarre miscarriage of justice to require a man to forfeit his rights to the Congress to protest the loss of those very rights to the IRS.

To set the record straight, Mr. Chairman, my attack on the IRS is not motivated by vengeance for what they may have done to me, but for a fair and effective tax system which will properly fund the operations of government and still guarantee that the taxpayer is treated responsibly in collecting his equitable share of that cost.

I have on previous occasions testified before this committee with detailed complaints about illegal IRS hit lists, spy files, seizures, liens, searches, religious oppression, and armed raids. This testimony is available in your files and will not be repeated here today in the interest of time and because significant new areas of abuse have been uncovered which need to be discussed.

However, I hope this committee will review the earlier testimony which is still very valid along with the material in exhibit folders A and B which include documentation of wholesale violations of law and citizen rights by the IRS.

I must emphasize also that the violent ways of the IRS, where violence is not justified, cannot be excused by that agency as an aberrational phenomenon, because it is now happening everywhere and with increasing frequency and intensity. Death is on the doorstep of the IRS and they seem hellbent to make it happen.

From the armed raid plan on my small city of St. Anthony, Idaho, the violent ways of the IRS have dragged pregnant women from their cars in Alaska and Colorado, used 40 armed men to capture a nonviolent Amish family in Maryland, sent a team of 9 armed men to improperly seize from equipment from private property in Casper, Wyo., conducted an armed mass seizure raid on Craig, Colo., and the list goes on.

The seizure operation was so bad in Colorado that a U.S. Federal court ordered property returned, and the general abuse of citizen rights has provoked an active and ongoing investigation into IRS abuses by the Office of the Inspector General of the U.S. Treasury Department at my request of the Justice Department.

These abuses and the flagrant interference by the IRS in the political process prompted the top-rated TV investigative program "60 Minutes" to do an expose on November 15, 1981, after 6 months research and over the protests of the IRS and its legislative friends to whom no amount of evidence against that agency's improper activities seems adequate.

ILLEGAL ELECTRONIC SURVEILLANCE AND JURY MANIPULATION

I would particularly like to discuss at some length two incredible issues—that of jury manipulation and illegal electronic surveillance. I urge you to examine the question of bugging citizens who are of interest to the IRS only because they protest or resist taxes. If there is a crime involved, I think that we can all concede that any such wrongdoing is not in the same class of gravity as the drug-related crimes, which often include murder and other forms of violence, where the IRS has defaulted on its obligations.

We in the Congress have been very sensitive in recent years about violations of individual privacy, yet I now present to you a piece of paper which opens a Pandora's box of questions. I refer you, Mr. Chairman, to exhibit No. 1 in section A. Here is yet another case where it seems only the IRS can outlandishly abuse the commonly accepted rights of our citizens.

Here is a letter in which the IRS asks the permission of the Justice Department to violate the privacy of a group of individuals where the IRS itself concedes that the people are not even being bugged for suspicion of a crime. They are in fact being bugged to trace assets, by the letter's own admission.

Now here are a few of the questions which arise.

Where does a minor functionary in the Justice Department get the power to grant another agency the authority to violate people's privacy?

Does the number on the authorization indicate that this was the 824th such violation in that year? Or does it mean only that it was the 824th requested and granted to the IRS alone?

What, if any, verification was made by Justice of the allegations made on behalf of the IRS? The whole world has known for years that the principal, if not the sole, suspect in the murder of Judge Wood was a drug dealer named Sonny Chagra, who, with fine irony, is under indictment for that murder while we sit here. Does not that simple fact suggest to even the most naive that the entire letter is a tissue of fabrication written and simply endorsed as a justification for illegal bugging?

If there were any doubt, I offer an article from the Washington Post of April 16, also in the dossier in which FBI Director William H. Webster states that the investigation into the murder of Judge Wood took 3 years, cost several million dollars and centered on Chagra from the start.

Mr. Clancy's letter implies that these Colorado tax protesters killed Judge Wood at a time when the Justice Department was in the process of building a case against the drug dealer Chagra. Mr. Wilens either knew the letter was a phony or just could not be bothered to do the most elementary check. I remind you that Mr. Wilens was arrogating the authority to violate the basic civil rights of these targets.

The request and the authorization bear the same date, October 26, 1979. What does this say for the respect for the rights of citizens by the Justice Department charged with the specific duty of protecting them.

But now look at the letter from the point of view of the sender, the IRS Director of the Criminal Investigation Division, Mr. Clancy. Here is the top criminal investigator for the IRS, the Service which never tires of telling Congress of its sensitivity to the rights of the citizen.

First, Clancy wants the bug for the sole and specific purpose of tracing the target's assets, a basis which boggles the mind. Should we draw the obvious conclusion that when IRS wishes to trace a person's assets that illegal bugging is an acceptable procedure?

Passing over several points which could be mentioned, let me direct your attenton to the last full sentence on the first page. In referring to "nontelephonic conversations," Mr. Clancy fairly shouts that the IRS already had a telephone bug in place. By what authority? Did Wilens ever inquire as to the fact and/or legality of such a bug? Apparently not.

A correspondence between the two most powerful agencies of Government, possessed of the capacity to oppress the citizen the most, treats the citizens and their rights as nonexistent. I might mention this is not the only document available. I think I brought this to your attention earlier in hearings late last year in which it was shown the type of individual they were relying on who had been in a state mental institution and also had threatened the life of a law enforcement officer.

Here the Internal Revenue Service was in the process of apparently, according to deposition, making a deal to let that person off for the privilege of being electronically wired for IRS purposes.

Mr. Clancy says that these Colorado types killed a Federal judge in Texas "some time back," on the alleged motive that he had sentenced a tax protester to 45 years. You should remain aware that the IRS is intimately involved in every case, civil or criminal, in which tax administration is involved. The IRS knows in detail what happened in every tax case everywhere in the United States.

I telephoned the U.S. attorney's office in San Antonio and spoke to the attorney who handled tax cases for the Government during the time involved. The facts are that the policy in Judge Wood's court was to sentence criminal tax violators generally to 1 year. In many cases, sentence was suspended. In some aggravated cases, the prison sentence was as much as 3 years.

The U.S. attorney most familiar with the cases at the time cannot remember one single case that exceeded 3 years. Plainly, Clancy had to be lying to justify for himself and Wilens the violation of the rights of the targets.

Clancy ultimately says that, pursuant to his own authority, he authorized the use of electronic surveillance and asks for endorsement from Wilens to extend the activity for 30 days.

Let me address what I think will be the main line of defense by IRS for this abuse. The argument will be that this is, after all, only one case. It is pretty thin to hang an entire collection system for one misstep. This is the standard IRS line whenever they are caught anywhere doing anything improper. Oversight subcommittee staff members used this very line on me when I tried to bring them the early results of my inquiries.

What is plain is that this is not the only case—it is the only case where the offended taxpayer has caught Justice and the IRS redhanded. It is obviously the 824th case in that year of 1979. The letter has all the earmarks of a routine communication. Witness the same day authorization without even the appearance of verification by Wilens.

It accuses these targets of murder and conspiracy to commit murder, yet both the writer and the addressee had to be operating under the secure knowledge that this was all window dressing for an illegal electronic surveillance. Otherwise, no self-respecting bureaucrat would ever pass such a letter without checking, reporting to superiors, and taking a whole host of other self-protective actions.

As I have already pointed out, Wilens knew or had the obligation to ascertain that the IRS targets were not involved in the Wood murder. He passes over the clear signal of an illegal telephone tap, and treats an allegation of conspiracy to commit double murder as run of the mill. Everything about the letter indicates that it is one of a number of such authorizations, part of a routine system of Justice Department rubber stamping of illegal acts by the IRS.

At minimum, the existence and circumstances are sufficiently revealing to require further investigation. The number of such authorizations, the relationship between the IRS and the Department of Justice, and the real or fraudulent claim of the statutory right to make such surveillance should be determined by this subcommittee.

I believe this matter is of such magnitude that Wilens and Clancy should be brought here to this room today and required to justify under oath the acts described in this letter—and it should be done just as though they were ordinary citizens and not important Government officials.

Now, as to jury manipulation, Mr. Chairman: Several months ago one of my aides received a phone call from South Dakota from the wife of a man who had just been convicted of a tax crime and sentenced to jail. She claimed that the U.S. attorney had access to information on the personal tax situation of the jury which heard her husband's case.

My staff contacted the attorney who defended the man. We were told that the attorney was embarrassed to raise the issue since he considered that even a question implying that the U.S. attorney had such information would be an accusation of improper conduct. Nonetheless, in a pretrial conference with the judge and the U.S. attorney, he asked whether the U.S. attorney had obtained such information. He learned to his amazement that, indeed, the U.S. attorney had information on every juror called for jury duty at that court during that time period, whether the cases to be heard were on tax matters or other crimes.

I raised the issue with the Justice Department by a letter, a copy of which is in the dossier. A member of my staff was directed to the Legal Support Services Section at the Department of Justice where he interviewed a Ms. Georgia McNemar, who was in charge of that section. The lady admitted that the practice of "requesting information" was "universal" and that it was sanctioned by title 26, United States Code, section 6103(H)(5). A later letter from the Justice Department, also in the dossier, reiterated that justification.

Mr. Chairman, some members of the subcommittee may recall a limited discussion of this matter in December during my previous appearance here. However, it is important to discuss in more depth, the several issues apparent in this allegedly authorized practice. First, the statute only authorizes a request, in writing, from the U.S. attorney to the IRS on an individual juror. However, there is reason to believe that these requests are not in fact, in writing, and even if they are, they are admittedly for every member of the venire panel.

Second, the statute authorizes such a request only in cases involving tax administration, that is civil or criminal tax cases. Solicitation of such information as to any other juror remains a Federal crime of illegal disclosure, even for officers of the IRS or members of the U.S. attorney's office. Therefore, it appears that the information which Justice concedes it asks for and gets is outside the statute, and therefore given and received feloniously.

Third, after this matter came to my attention, my office made inquiry of a relatively large number of attorneys active in Federal trial work. They were unanimously unaware of the existence of the statute or of its common use by the U.S. attorney anywhere. They were also universally appalled at the existence or use of such a practice, especially since, by the terms of the statute, defense counsel could not get any such readout on an entire jury venire panel.

According to the Administrative Office of the U.S. courts, during the period from July 1, 1980 to June 30, 1981, 648,929 persons were called on venire panels around the country. Under the interpretation placed upon the statute by the IRS and the Department of Justice, this is the number of people whose tax situation is explored by Justice and the IRS each year on the exclusive grounds that they are compelled to appear for Federal jury duty.

All of the invasion of privacy involved in this procedure is without the knowledge or consent of the jurors.

Fourth, Justice and IRS claim that only the single question and the yes or no answer authorized by statute has ever passed between the two agencies. I strongly suspect, but cannot yet clearly prove, that this self-serving disclaimer is false. My suspicion is based on the allegation of the South Dakota defense attorney that he saw a computer printout of jurors, not just a yes or no.

In addition, over years of inquiry I have learned that when the IRS is caught in the act, it will never ever admit the obvious, so strong is its reflex for self-protection. I urge the subcommittee to determine to its own satisfaction, through its inherent powers to acquire information, just what has in fact been passing between the IRS and Justice under the putative authority of section 6103(H)(5).

Fifth, the need and purpose of the statute defy explanation. A simple yes or no as to whether the prospective juror has been audited or investigated is relatively meaningless. If the tampering with jury makeup is restricted to excusing jurors who have been audited, it is killing a gnat with a sledge hammer. If there is more, let the Congress tell the people that tax-return confidentiality is a sham.

I tell you frankly that I and the Association of Concerned Taxpayers propose to tell the American people that jury duty entails letting the prosecutor rummage around in their tax returns. I am convinced that restricted to its terms the authorization of section 6103(H)(5) is meaningless and that the involved agencies admit that they go far beyond and even violate its verbal scope.

Should a prudent man, knowing the reputation of the IRS and the growing suspicion about the integrity of the Department of Justice, doubt that the information passed is considerably more detailed than a yes or no? This subcommittee must at some time look at the IRS monstrosity which it is charged with overseeing. With this Nation's tax collection system in such a state of ineffectiveness that it is on the verge of collapse, now may be the last useful time to launch such an investigation.

SUMMATION

Now, Mr. Chairman, let me put what I have been saying in some perspective. Over the past few years the IRS has been caught red-handed in illegal wiretaps; in the excessive use of force on taxpayers; in illegal searches and brutal and unjustified seizures. They have, contrary to law, maintained lists of those whom the agency has decided are enemies of its survival.

They have regularly used their privileged information, gleaned from returns the taxpayer is forced to provide, in illegal ways against anyone they choose, from the ordinary citizen to the public official. They have systematically interfered in the political process as in the cases of Senators Montoya and Long and others.

None of that sorry record is new to most citizens of this country who have lived with the reign of terror. There are those who object when I call it a reign of terror, but 15 years ago, Donald Alexander, then Commissioner of IRS, spoke of instilling fear in the citizens as a necessary part of the tax collection process, an attitude which has continued with subsequent commissioners. Strangely, there has been little or no outcry in Congress about subjecting the people to such a stimulus.

In fact, if there is a surprise in all this record, it is not the abuse of power by the IRS, rather it is the utter failure of the Congress to do anything at all to stem that abuse of power. Both from inside the IRS and from its victims, the record is clear that such abuse of power exists and is rampant.

Mr. Chairman, there is in your dossier a folder with a number of segments from the Congressional Record called "The IRS Strikes People Everywhere" and I invite you to look at this for a good cross section of the kinds of complaints that we have been getting.

Yet in the past 10 years, with the exception of a few weak provisions in the Tax Reform Act of 1976, the Congress has increased rather than decreased the powers of the IRS and decreased the protection of citizens.

Even the provisions of the Tax Reform Act of 1976, paltry as they are, have been under constant attack since they were enacted. Last December 14, under the bland title of Taxpayer Privacy Issues, the true subject under discussion was basically the repeal of the 1976 act because it had proved an inconvenience to the IRS.

As unpalatable as the truth may be, the Congress has acted as the IRS protection club. No allegation, no matter how heinous, against the IRS has ever been thoroughly investigated. I retain the concern that too often we as Members are protected from the actual sitution by an ovezealous staff whose jobs do not depend directly on the decision of a concerned electorate.

Let me tell you what has been happening. After I had written my book on IRS abuses, CBS came to me and expressed an interest in doing a segment of 60 Minutes on the same subject. We discussed my continuing work on the IRS abuses and the CBS representative went on his way. Several days later, the same man from CBS called to tell me that they had almost decided to scrap the IRS project but had now reversed their thinking and were going to do the segment.

He told me that the problem had developed when he had consulted members of the staff at Ways and Means where he was told that I was not reliable and that in those instances where there was some truth to my allegations, that they were old and had long since been corrected.

The CBS man then told me that he had independently checked some of my allegations anyway and found them to be accurate and sufficient to justify their proceeding with what turned out to be months of investigations and public statements by several past and present IRS employees supporting my charges against the agency.

On the Monday after that 60 Minutes segment was aired, on November 15, 1981, the producer of the segment called me to describe a phone call he had received from a member of the Ways and Means staff. He told me that the staffer had demanded the names and addresses of everyone whom CBS had interviewed for the program, and that the demand constituted "an official order." To be sure I had heard right, I had my staff attorney call the producer back to have him repeat the story. He was told the same story in detail.

Disturbed that such a demand should have been made, I wrote to the full committee chairman, Mr. Rostenkowski, about it. A copy of that letter and his reply is in the dossier. I do not for 1 minute doubt the integrity and truthfulness of the committee chairman, but I am certain that the demand was made and that the CBS producer was being pressured by someone at Ways and Means on behalf of the IRS.

It is my perception that the taxpayer will no longer credit the good will of the IRS or of the Congress. They perceive themselves to be oppressed by the system created by Congress and administered by the IRS. Everything I have learned confirms to me that the system is unfair and is loaded against the middle- and lower-income people. The administration of that system is authoritarian and approaches the totalitarian.

Although I have used the term Gestapo to describe the IRS collection practices, I was not the first. Senator Long described the same phenomenon in precisely the same words almost 20 years ago, just before the IRS ended his political career by smear tactics. And the charge was repeated frequently by the past and present IRS emplyees themselves in the 60 Minutes interview.

In all that 20 years, no real meaningful attempt has been made by Congress to bring the agency under control. Whom are the people to blame if not us? How must they view it, when after a 2-year campaign to expose the abuses of the IRS, the sole congressional response is to pass a tax deduction benefit for themselves which has the even more alarming effect of protecting the Congress from the IRS auditors while leaving the taxpayer to his fate? [Applause.]

Chairman **Rangel**. The chairman would like to remind the spectators that while these are public hearings, only the witnesses will be allowed to testify, and we have to carry out very carefully the House rules about having audible displays in the hearing rooms. It is for the tradition and integrity of the hearings and the Congress. Thank you.

Mr. **Hansen**. Thank you, Mr. Chairman.

A $75-a-day automatic expense deduction, instead of the painful itemizing required of the public, sure keeps the IRS out of a Congressman's private file and off his back, but is it any wonder that people are furious as we set ourselves up as some sort of royalty immune from the laws everyone else has to live by.

Should we really be surprised that there are protesters and resisters? Frankly, I am surprised that there are not more. I have introduced H.R. 4931, the Taxpayer Protection Act [TPA], which is aimed at reducing the powers of the IRS to those of any other creditor against any other debtor. The principal thrust of this bill, which now has over 100 cosponsors of the broadest possible political philosophy, is simply to bring the IRS under control.

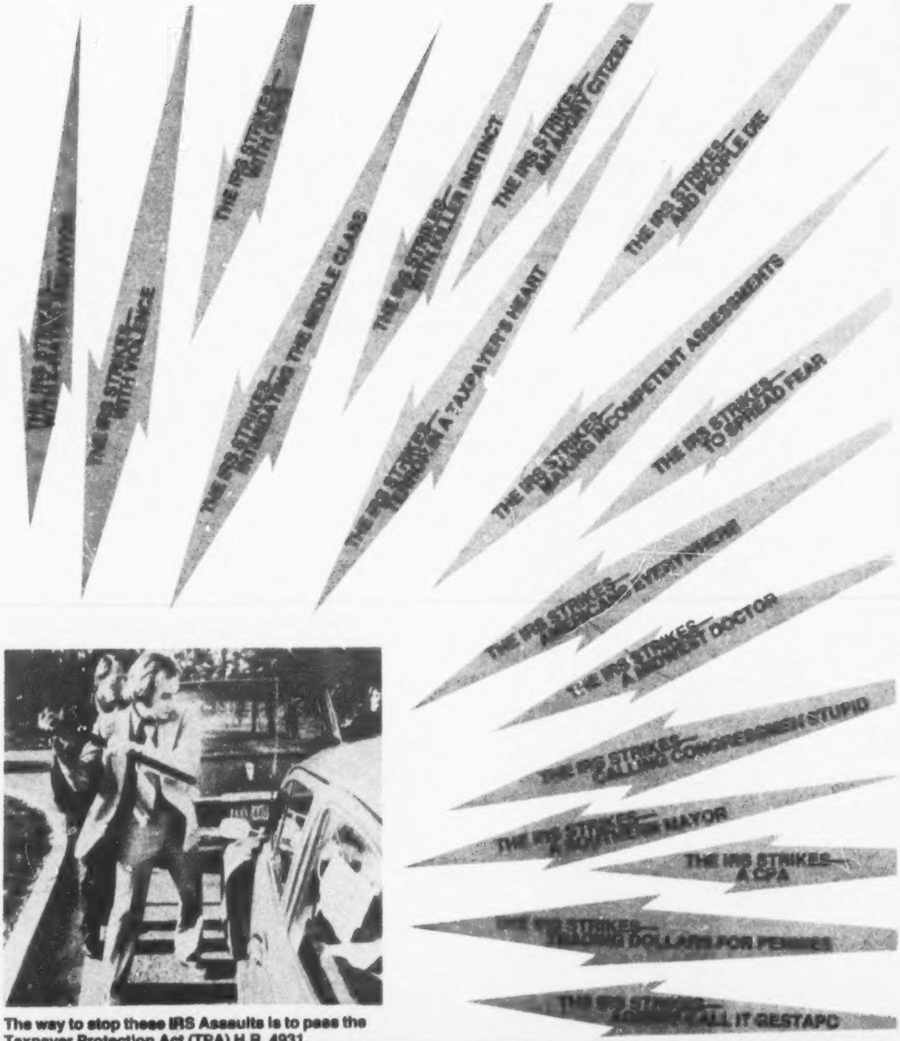
And with the Taxpayer Protection Act, I have also introduced companion legislation H.R. 4821, the Tax Simplification Act [TSA], a single-rate tax plan which will end the preferential treatment for Congress and for the rich and for everyone else, reduce the incentives for tax evasion, and restore the confidence of the average citizen in the fairness of the tax system.

Mr. Chairman, we want people to pay their taxes. We want them to pay fair taxes, to pay their share, but I feel that the Internal Revenue Service has had a very crude and raw misuse of their manpower, and to give them more manpower to do nothing but harass people is not going to collect more money for the Treasury.

I think we all know that this Government has to have the funds to operate on, and we need to get to that $95 billion, or whatever it is, in the underground economy that is due Uncle Sam, but we need to do it in a way that is going to be productive, not counterproductive.

Mr. Chairman, it is time to act. Thank you.

[Mr. Hansen submitted the following:]


THE IRS STRIKES—
THE IRS STRIKES— WITH VIOLENCE
THE IRS STRIKES—
THE IRS STRIKES— INTIMIDATING THE MIDDLE CLASS
THE IRS STRIKES— WITH KILLER INSTINCT
THE IRS STRIKES— AN ANGRY CITIZEN
THE IRS STRIKES— TERROR IN A TAXPAYER'S HEART
THE IRS STRIKES— AND PEOPLE DIE
THE IRS STRIKES— MAKING INCOMPETENT ASSESSMENTS
THE IRS STRIKES— TO SPREAD FEAR
THE IRS STRIKES— AMERICANS EVERYWHERE
THE IRS STRIKES— A MIDWEST DOCTOR
THE IRS STRIKES— CALLING CONGRESSMEN STUPID
THE IRS STRIKES— A SOUTHERN MAYOR
THE IRS STRIKES— A CPA
THE IRS STRIKES— TRADING DOLLARS FOR PENNIES
THE IRS STRIKES— AGENTS CALL IT GESTAPO

The way to stop these IRS Assaults is to pass the Taxpayer Protection Act (TPA) H.R. 4931.

THE IRS STRIKES — PEOPLE EVERYWHERE

A.C.T. TO STOP I.R.S. ABUSES

PASS THE TAXPAYER PROTECTION ACT

97TH CONGRESS
1ST SESSION

H. R. 4931

To amend the Internal Revenue Code of 1954 to regulate and limit collection procedures of the Internal Revenue Service in order to provide protection of taxpayer civil rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 1981

Mr. HANSEN of Idaho introduced the following bill; which was referred jointly to the Committees on Ways and Means and the Judiciary

---

A BILL

To amend the Internal Revenue Code of 1954 to regulate and limit collection procedures of the Internal Revenue Service in order to provide protection of taxpayer civil rights, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer Protection Act".

The Tax Man. He doesn't wear a uniform, but he has more authority than a policeman. He would never be addressed as "Your Honor," but he can exercise more control over your life than a judge. He can empty your bank account, tow away your car, seize your home and some of the things in it, sell them and keep the money. Under his system, you are *presumed guilty* until you can *prove your innocence*. All these things can happen to you *without due process of law* guaranteed *even to common criminals* under the U.S. Constitution..." Those chilling words were in a recent PARADE magazine article about IRS abuses.

Association of Concerned Taxpayers
418 C St., NE • Capitol Hill • Carriage House • Washington, D.C. 20002

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

Vol. 128 WASHINGTON, TUESDAY, MARCH 23, 1982 No. 30

House of Representatives

THE IRS STRIKES -- A SOUTHERN MAYOR

THE IRS STRIKES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● **Mr. HANSEN** of Idaho. Mr. Speaker, I have been outraged by the overzealous and heavy-handed tactics adopted by the Internal Revenue Service in their tax collection practices. For a number of years I have been receiving mail from across the Nation from honest taxpaying citizens complaining of undue harassment by this agency.

This public outcry has prompted the introduction of H.R. 4931, the Taxpayer Protection Act (TPA). Very simply, my legislation requires the IRS to operate within the law and respect the fundamental constitutional rights of the taxpayer.

This long-awaited relief is needed to restore integrity to our tax collection system and to rebuild the public's confidence in its elected officials.

The abuse of citizens has been documented in all walks of life from Congressmen to doctors, farmers, attorneys, accountants, waitresses, industrial workers, and so forth. Today, as an example, I submit a letter from a mayor of a Southern city telling of his story of harassment.

DEAR SIR: I read with much interest the attached news article about giving needed relief in cases of proven harassment by the Internal Revenue Service. After viewing the national T.V. program "60 Minutes" on November 16, 1981, I realized Congress certainly needs to check into our I.R.S. System.

Without any previous notice or contact from the I.R.S., I had two special agents from the Criminal Division of this agency come into my office and read me my rights. They proceeded to question me as a criminal because of a previous association in land sales with a partner who did not file a tax return.

I have always filed my tax returns on what I consider to be a fair and legal basis. Never until this day have I been contacted by the Civil Division of the I.R.S. requesting financial information or an audit to see if I have paid the proper amount of tax. Although there is no evidence that I have ever defrauded the government, these so-called special agents from the I.R.S. in [name of city withheld], have all but "drummed me from office" and ruined me and my family. Consequently, I have had little recourse but to sit back and observe this total injustice.

I did immediately contact my local accountant and attorney. They admitted as to never seeing this approach from the I.R.S. and stated that it would be advisable if I sought help from expert tax attorneys in [name of city withheld]. This legal advice has already cost me $5,000 and could run as high as $25,000 before the Criminal Division decides if it has a case or not. My attorney has advised me to have no contact with these special agents, because anything that I might say could be used against me. He explained that there are now 26 special agents operating in [name of State withheld] alone trying to originate criminal cases to justify the existence of their jobs.

After serving my country in combat during World War II and my community as Mayor for 20 years, with a record that speaks for itself, I have to sit back and wait while these special agents use their unethical tactics.

They have been to all local banks and business associates with whom I have had any dealings and dropped libelous hints to the local newspeper. In this small city of 14,000 people, these special agents have insinuated to local citizens that as their Mayor, I have acted as a criminal with no regard for mine or my family's reputation. A man can be ruined by such malicious insinuation regardless of the eventual outcome.

I would have gladly secured any and all records if I had been approached in a regular manner for audit from the Civil Division of the I.R.S. If they had found evidence of fraud it could have then been turned over to the Criminal Division or whatever. This method of investigation is totally Un-American and obviously violates rights guaranteed every citizen under the United States Constitution. Congress needs to research this problem immediately, for this is the only governing body a private citizen can look to for protection.●

E 1206

E 1250 CONGRESSIONAL RECORD — *Extensions of Remarks* *March 24, 1982*

THE IRS STRIKES -- A MIDWEST DOCTOR

THE IRS STRIKES AGAIN

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● **Mr. HANSEN** of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA), is the following letter from a doctor in the Midwest.

On November 15, I had an opportunity to watch a presentation by 60 Minutes in regard to the unfair tactics used by the IRS against the citizens of the USA. The reason I am writing this letter is because during this show, it was pointed out that several legislators in the past had tried to investigate them, and they, themselves were ruined politically because of it.

I have been audited every year since 1966, and I would have to say that for the most part, I was always treated very fairly and gentlemanly. My last auditor however, made statements like "I am the judge, the jury and the prosecutor". I can prove this, as my accountant and my wife were present at the time. He also stated it would do me no good to take my case to court, as the IRS could overrule the court, regardless of what the court's findings were. Last of all, he stated that if I were to hire an attorney, it would be a total waste of time because he, as the IRS agent, would have the final say so about everything.

Congressional Record

THE IRS STRIKES CONTINUED

THE IRS STRIKES -- A MIDWEST DOCTOR - CONTINUED

Needless to say, when you have gone through this experience and you hear about other people having the same kind of experience, I feel it is time that we as free citizens, do something about it. I think it is time the legislators stand up and be counted. If we are going to be prosecuted one at a time, then I suppose there will be no end until the IRS becomes the final autonomy in this country. Then we will have, as it was stated on the 60 Minute program, a "Gestapo" with the only difference being that we have not put our people in the black uniform.

I think it would behoove all of you to see that particular segment of the program to know that this is not something to be handled lightly. I would appreciate very much, your comments on this matter and what you intend to do about a branch of government that there is no question, has not only "gotten too big for its britches", but is becoming a destructive force within our society.●

E 5504 CONGRESSIONAL RECORD—*Extensions of Remarks* *November 21, 1981*

THE IRS STRIKES -- TO SPREAD FEAR

THE IRS DOES NOT ASK, THEY JUST TAKE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 21, 1981

● Mr. HANSEN of Idaho. Mr. Speaker, in response to a November 15 program on IRS abuses by CBS-TV's "60 Minutes," which was produced with my assistance, the following reaction from a Texas citizen was received illustrating the typical unhappy attitude of a great number of American citizens toward this agency.

NOVEMBER 16, 1981.

Re pay up or else
60 MINUTES,
c/o CBS,
New York, N.Y.

DEAR BROADCASTERS: First order of business—Bravo! Your broadcast as mentioned above was courageous and informative. Courageous for speaking out regarding the "untouchables" and hopefully one of many steps toward informing the American citizens on this, as stated "pernicious" and out of control agency the IRS/KGB.

Volumes could and should be said, but this agency intimidates and retaliates mercilessly. Therefore, instead of we, the people, being informed enough to take needed lawful action, we stay afraid through enforced ignorance and the IRS methodical plan to spread and perpetuate fear through manipulative retaliation.

It is time the ripple effect be reversed and this bureaucratic monster, the epitome of diminishing returns (no pun intended) no longer be allowed to scandalise, terrorise and ruin the citizens of this country. Contrary to their manifesto, those who get behind are not all cheats and criminals. Most people clearly understand the need to support their country and their government.

If the present administration would look to the IRS for spending cuts it would find a gold mine. This agency spends thousands of thousands to collect hundreds or less. For that and the immoral actions it perpetuates, IRS costs billions. When confronted with its acts it offers excuses and suppression until a new regulation can be drafted to protect the IRS, not the taxpayer. The existing regulations are stiffling and overbearing with more and more forever bearing down on us. Simplification of the tax system would ensure the ability to cut operating and enforcement costs. One almost needs a separate degree just to understand what all the responsibilities are and how every move affects their tax.

Taxes are too high and too unequal. Business has been forced to collect the taxes creating more expense for them yet no reason is applied on the behalf of business. Productivity suffers because not only are markets depressed but half the earnings can be taken in taxes and a great deal of cash flow is tied up in the collection of taxes. Lord help the business whose cash schedule differs from "the regulation", the fines are outrageous. Someone should also address the add-ons of fines, penalties and interest charged arbitrarily in this insensitive system. They are of criminal proportion.

I was blissfully ignorant for most of my work life, but no more. I have dealt with this insane agency and felt the helplessness of no recourse.

My experience was voluntary (move over Pandora) and though frustrating and enlightening, is fortunately not as terrifying as many. I first became concerned when IRS conducted a fishing expedition into what I considered quite personal—a checking account. They removed only a small sum, less than $35, and except for their administrative costs (they not only took it they returned it) it was as simple as writing a personal check. That was only one step in the intimidation process.

The IRS doesn't ask, they just take. Right or wrong, they take. After all, they don't have to prove anything, you do. That is if you're lucky enough that they listen before they destroy you and yours. Somehow, this seems in conflict with something I read somewhere in school.

There are concerned people out there as shown on your broadcast. Congressman George Hansen, Idaho has written a very true, very scary book, "How the IRS Seizes Your Dollars and How to Fight Back."

I've read the book, worded diligently within the system; yet still been intimidated and treated like a criminal. It appears to me that Congress and the media must work together to inform the public of this malignant agency so that the public can help those in power to gain control and reform.

The so called "tax revolt" is a symptom of this diseased, insensitive system. It is a few frustrated individuals among many who want change but cannot achieve change without informed, lawful, concerted action.

Please pursue this issue.

Respectfully,

(Name on file.)●

March 30, 1982 CONGRESSIONAL RECORD — *Extensions of Remarks* E 1349

THE IRS STRIKES -- AMERICANS EVERYWHERE

THE IRS STRIKES—AMERICANS EVERYWHERE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, additional examples of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act [TPA] are the following excerpts from letters I have received from across the Nation.

FROM KENTUCKY

I have been harassed by the IRS for years 1972-1976. They have never collected one thin dime in additional taxes but it has cost me thousands of dollars in legal fees for defense.

FROM COLORADO

I have been under constant investigation by the IRS for the past four years. . . . When I asked why the continuous harassment, I was informed they did not like my accountant. I changed accountant firms and now a new investigator is assigned to me. She has worked steady on my records for July, August, and September. Now I have heard nothing until they have proposed that I sign a paper to allow continuous checking of my taxes. (My accoutant's fee is

Congressional Record

THE IRS STRIKES CONTINUED

THE IRS STRIKES -- AMERICANS EVERYWHERE - CONTINUED

$70 per hour so I really don't need much more of this harassment).

I throughly believe in our tax system, have always paid my taxes—have asked these IRS investigators what I am doing wrong and they just say I'll have to ask my accountant. I've even tried to contact the head of the IRS here and he will not talk to me or return my calls. What possible recourse do we have against this harassment?

FROM TENNESSEE

Your efforts to curb the excesses of the Internal Revenue Service are of vial importance to all Americans. You are the first national leader to come forward with a reasonable legislative program designed to control the IRS. I am chilled to the bone when I realize that the IRS has been able to usurp a growing list of KGB-type methods with scarcely a murmur from the majority.

AGAIN FROM COLORADO

. . . No one wishes any more than we tax preparers do that your bill H.R. 4931—the Taxpayer Protection Act—will pass the House. It just has to go into effect or the American people are going to revolt even more than as now. Every American we talk to has had it with this out-of-control IRS. It is inconceivable that our Congress has let an agency—not even Bureau status—take over such power that even Congress can do nothing with them. . . .

FROM KANSAS

I read your article in the American Legion Magazine of December 1981 and was appalled at the power of the Internal Revenue Service. Although I have heard and read of the tactics of this government agency, it is good to learn of some of the facts. I am 66 years old, a veteran of two wars, now retired from a railroad company. It is astonishing that the American people will sit idly by and let these things go unnoticed. As we all recall, Adolph Hitler used these tactics in Germany in the late 1930's and early 40's and we all know what happened to him. If we live under a curtain of fear what next? The average citizen cannot fight Internal Revenue Service because he cannot afford it. Would a gambler spend five dollars to earn one? Definitely not. It might be, and possibly is, later than we think. If the power of the IRS is not curbed in some way, what will happen in the next 20 years? The liberty and dignity of the American people are fastly being eroded by the Gestapo tactics of the IRS. Many small businesses are being wiped out by the IRS, this is strictly a shame—because they are the backbone of this nation. Well, just a word to let you know that one war veteran read your article and am certainly concerned about it.

FROM TEXAS

. . . If there was ever an agency of the federal government that needed scrutiny, it is the Internal Revenue Service. And unless Congress is deliberately trying to cover up the scandalous behavior of the IRS, they would be well advised to hold these hearings.

FROM NEW YORK

I wholeheartedly agree with you that congressional legislation is needed to put the IRS in its proper place and restrict it from resorting to abusive, un-American and unconstitutional practices in collecting revenues.

FROM MICHIGAN

I agree wholeheartedly with you that the Internal Revenue Service has gone too far when they use the concept of "fear" to force people to pay their taxes. Some people actually overpay their taxes to avoid a possible confrontation or a lengthy court battle which would take them away from their jobs and possible loss of pay. The fear concept may actually be encouraging the 97 percent of people who cheerfully pay their taxes to cheat. The concept of power-mad IRS agents to be able to seize taxpayer property or private homes without a court order is totally repulsive to me and millions of other people.

During World War II another individual used fear as a means of subjugating an entire nation and was in the process of subjugating an entire continent. His name was Adolph Hitler.●

THE IRS STRIKES -- CALLING CONGRESSMEN STUPID

THE IRS STRIKES--CALLING CONGRESSMEN STUPID

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA) is the following correspondence I received from one of our colleagues in the Midwest. The first letter was sent to the Department of the Treasury by our colleague and the second is a memorandum he received from his District Office explaining the problem. This self-explanatory incident clearly shows the need for H.R. 4931.

DEAR SIR: I have enclosed a copy of a memorandum recently written to me by the Manager of (one of) my district offices. I would appreciate your taking a minute to read it.

By way of background, I recently became a cosponsor of H.R. 4931, which would limit and regulate the collection procedures of the Internal Revenue Service. I wrote my weekly newspaper column on this legislation, and outlined the reasons why I believed it should be enacted.

Although I firmly believe that the IRS personnel have every right to express their opposition to any legislation, I do object to the rude treatment that was given to my staff and me. Moreover, the note written by (my Office Manager) to (an IRS collection officer) was meant expressly for him, and frankly, I wonder where these "public servants" found the time to distribute it within their office on the taxpayers' time.

I think that this seemingly minor incident only serves to strengthen the need for legislation to restrict the Internal Revenue's power, which has been used in many cases to harass and intimidate law-abiding citizens.

MEMORANDUM

Re IRS and H.R. 4931.
To: Congressman.
From: Office manager.

Yesterday, on the way to work, I saw (name withheld) who is a collection agent for the IRS, and he and I were discussing your column concerning the IRS. He indicated to me his disapproval, along with other IRS employees who also were not too happy with the column.

When the morning mail came in I received a copy of H.R. 4931 so I thought it would be good PR between this office and the IRS office, especially (the collection agent), if I asked for his opinion on the bill and to offer any suggestions or comments he might have. (The collection agent) was out of his office so I wrote a note and attached it to the bill and laid it on his desk with the permission of his office partner.

That afternoon, (the officer in charge) of the local IRS office brought the Bill H.R. 4931 and my note to the (collection agent) up to (our Congressional office) with the word "hogwash" written on it. I explained to him that I was wanting an intelligent response, but this seemed to be the best he could do.

What really hacked me off was two things: No. 1 was the statement he made that any Congressman who would introduce a bill like this must be stupid. No. 2 is that my note and request for information was directed to the (collection agent). I resent the fact that (his office partner) took it upon himself to take my message to (the collection agent), who was out of the office, and distribute it throughout the IRS office; and that (the officer in charge) took it upon himself to give me an unintelligent opinion of "hogwash."

I then took the note and the bill back down to (the collection agent's office), who still was not in, and asked (his office partner) if I could again leave it on his desk and I asked that it be specifically left on (the collection agent's) desk since the message was for him—not anyone else. (His) reply was, "get the hell out of here and don't ever come back," which I did; but before I left I let it be known that my opinion was that his

Congressional Record

THE IRS STRIKES CONTINUED

THE IRS STRIKES -- CALLING CONGRESSMEN STUPID - CONTINUED

attitude sure made it all the more obvious that we need a bill such as H.R. 4931.

I then went over to (the officer in charge) office to express my total concern about his and other employees of the IRS and their attitude or lack of concern for the taxpayer and people in general.

It is an attitude of "we are right—we are above the law—collecting taxes is the No. 1 function of the government, and there is nothing that should stand in the way of the IRS in collecting taxes—not the Congress, not the President, nor a judge."

I think this just goes to show that we need a bill such as this and the sooner we have it the better off many American taxpayers will be.●

March 30, 1982 CONGRESSIONAL RECORD — *Extensions of Remarks* E 1329

THE IRS STRIKES -- A CPA

THE IRS STRIKES—A CPA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA), is the following letter from a certified public accountant in a Northwest State.

Dear Sir: I have recently been banged on by the IRS. A local agent made a mathematical error, in favor of the IRS, in the amount of $4,000 in computing my tax for a prior year. I was told by an IRS official that they recognized the error, but that I would have to go to Tax Court to have the error corrected.

The element of fear when dealing with the IRS must be stopped.

The seizure of property without a court order must be stopped.

It is a violation of my rights as a U.S. citizen to be assumed to be guilty until I prove myself innocent.

A person arrested for murder receives fairer treatment than the average taxpayer does when dealing with the IRS.●

March 30, 1982 CONGRESSIONAL RECORD — *Extensions of Remarks* E 1343

THE IRS STRIKES -- TRADING DOLLARS FOR PENNIES

THE IRS STRIKES—TRADING DOLLARS FOR PENNIES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 30, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA) are the following news articles from the Austin American Statesman, March 19, 1982, and the New York Daily News, August 7, 1981.

Since the IRS admits it is not cost effective to chase pennies, and because they are obviously aware of the taxpayer's prerogative to round to the nearest dollar, the only possible motive for such action is blatanty harassment.

This is yet another means used by the IRS to instill fear and remind the public of their awesome power.

IRS Flushes Out Every Last Cent

West Farmington, Ohio (AP).—The IRS spared nothing to go after its man, Roy Elsa, who owed the Federal Government 18 cents.

The IRS spent $3 to file an item with the Trumbull County recorder against Elsa's property and spent another 20 cents to mail it.

Both IRS and the recorder's staff spent time processing the lien.

"It makes no difference. It's an unpaid Federal tax," said Rollie Woods, a spokesman for the Cleveland regional IRS office.

The lien indicates the late tax applies to Elsa's withholding tax that was due in June 1979. All of Elsa's assets are frozen until the bill is paid.

Pounds of Flesh—IRS Fattens This Dime Owed

(By Bella English)

A dime won't even buy penny candy any more, but to Uncle Sam it can be worth a lot more than 10 cents.

The Government is demanding that a Chinatown woman pay a $28.15 penalty because she underpaid her 1980 taxes—by a dime.

In an August 3, letter to Chan Wing, 50, the Internal Revenue Service said: "Unpaid tax on return is 10 cents. Penalty charge is $28.15. Balance due to IRS is $28.25. Make check payable to IRS."

Wing, who speaks no English, showed the form to her stepdaughter, Rose Wine, assistant manager at a Chemical Bank branch in Jackson Heights, Queens.

"It cost them more to print up this form and send this out than my stepmother owes," Rose said. "Do you believe this? I think this is the most ridiculous thing I've ever heard of. I just had to laugh."

Her laughter turned to anger yesterday when she went to the IRS office in Jackson Heights and was told that her stepmother must indeed pay the 10 cents and the $28.15.

"I can't believe it," Rose said. "They're wasting your money and my money over a lousy dime. But I don't know which way to turn. If I have to pay it, I have to pay it."

Rose said, though, that she is considering writing a letter of appeal to President Reagan.

IRS officials said that disclosure laws prevent their discussing the case.●

April 5, 1982 CONGRESSIONAL RECORD — *Extensions of Remarks* E 1501

THE IRS STRIKES -- AGENTS CALL IT GESTAPO

THE IRS STRIKES—AGENTS CALL IT GESTAPO

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 5, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, many examples have been documented of the heavy-handed and abusive tactics the Internal Revenue Service uses in its tax collection practices—practices which would be stopped by

Congressional Record

THE IRS STRIKES CONTINUED

THE IRS STRIKES -- AGENTS CALL IT GESTAPO

passage of H.R. 4931, the Taxpayer Protection Act (TPA).

No example is more shocking than a letter I received from an IRS agent in the Northeast, who has worked for the Agency for a number of years, complaining of abusive acts of the IRS against both taxpayers and employees and strongly advocating corrective action.

His complaint of Gestapo tactics, along with the following excerpts from a November 15, 1981 CBS-TV "60 Minutes" exposé of IRS abuses, entitled "Pay Up Or Else," where Morley Safer interviewed many agents, are illustrative of the growing concern for reform among conscientious employees of the Agency itself.

The letter follows:

Dear Sir: Yes, there should be a strong clampdown upon the illicit activities of the IRS. I know of many such acts first-hand because I have worked for this institution for over 6 years. I can tell you of many more abusive acts committed by some of my colleagues and supervisors (the latter probably being the worse of the lot).

Would you believe the fact that at the time President Reagan was shot at, during the assassination attempt, several of the IRS employees burst out in laughter upon hearing the tragic news? They gathered around a television, on Government time, and watched with glee at the bad news. This happened at the (office) where I am a tax auditor. That was a shameful act.

The passage of H.R. 4931 may bring about changes which are long overdue to help alleviate the plight of the taxpaying public. Some legislation may also be needed to assist dissenting IRS employees from harassment from the Gestapo tactics of this institution as well.

I sincerely hope that this letter will not jeopardize my employment. I wish you the best of luck in your efforts to have the immediate passage of H.R. 4931.

Sincerely,

Audit the Tax Man

("60 Minutes" Agents Interview)

Charles Shefke (Agent). The IRS is probably the most pernicious organization that the Federal Government, our legislators, have ever created. And if I had to parallel it with any other kind of organization in the world, I would parallel it with the KGB, probably the Gestapo.

Morley Safer. We talked to a revenue agent still working for the IRS and four other agents who recently left the service. Jack Elliott was an agent for the IRS for more than twelve years. Gary Dutloff left after seven years. Sharon Fields resigned after six years. Bob Braun is still a working revenue agent in a Pontiac, Michigan office. And Charles Shefke who quit he says because he, like the others, was being asked to intimidate relatively innocent small fry.

Charles Shefke. The poor taxpayer who wants to come up and be up front and tell you his story and tell you what's wrong literally exposes himself to getting the worst treatment that IRS can lay on him.

Gary Dutloff. If the revenue agent wants to, he or she can attach any property publicly available belonging to the taxpayer who is more than ten days delinquent in paying the taxes.

Safer. So, in effect, does not need a warrant?

Dutloff. Does not need a warrant, does not need to see a judge.

Bob Braun: The revenue officer is essentially, when it comes down to a bottom line on it, a prosecutor, a judge, and a jury, and then he's the cop that goes out and executes it also.

Shefke. Justice Marshall said that the power to tax includes the power to destroy and we enforce the tax laws and we go out and destroy people. We literally destroy their life, their livelihood, everything.

* * * * * *

Shefke. The revenue officer on the front line can go out and do that to people and in point of fact, if he's the kind of revenue officer they want, that's what he will do. They do want to intimidate the American people. They do want to scare them.

Safer: Why such brutish behavior when the IRS had already made an agreement with Bishop to pay off his tax debt? An internal IRS memorandum, for example, shows the kind of pressure that is exerted on its men in the field. From Manchester, New Hampshire—"look over your inventory select one good taxpayer account for seizure action." A Grand Jury in Forth Worth recently indicted two IRS officers on charges of falsifying nearly two hundred federal tax records in order to meet office production quotas.

You still work for the IRS, Bob?

Bob Braun: I do.

Safer: Is all this familiar stuff to you?

Braun: Absolutely.

Safer: Does it still go on?

Braun: To a very great extent, yes. The, the whole idea of things being done for their statistics, for the number. If you want to move ahead, and go into management, which supposedly where all good revenue officers are supposed to wish to be, the why to get there is to have a good track record in seizures.

Gary Dutloff: Eighty percent to eighty five percent of the management meetings would deal with comparative statistics. Each manager would wear those statistic on their, on their sleeve.

Charles Shefke: In all the time I was in the service. I probably made fifty or sixty seizures. I can think of only two cases where a seizure was really warranted. And in point of fact, had I not seized the property, had I given the taxpayer an opportunity to pay the taxes, we would have collected more than I got in the seizure.●

THE IRS STRIKES -- TERROR IN A TAXPAYER'S HEART

THE IRS STRIKES—TERROR IN A TAXPAYER'S HEART

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 5, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, many examples have been documented of the heavyhanded and abusive tactics the Internal Revenue Service uses in its tax collection practices.

The following article by Byron Farwell, a historian and mayor of Hillsboro, Va., in the Sunday Outlook section of the April 4, 1982, Washington Post, cleverly tells of the unfortunate trauma the IRS has developed among taxpayers and how self-serving audit process of the IRS is not so much geared to accuracy as to getting all it can from the terrified taxpayer—witness first the minor $3 writeoff followed later by an unchallenged $8,000 refund.

These abusive practices would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA).

If the IRS Calls, Send Your Wife

(By Byron Farwell)

In my youth, when I still thought men could be reformed, I taught a weekly literature class to prisoners in a Michigan penitentiary. There I met a remarkable man who had no fear of the Internal Revenue Service. I never met another such. He was a forger, a sweet man with a boundless faith in the generosity and forgiving nature of mankind. A fool as well as a felon, of course.

It has been nearly 10 years now, but I shudder still: We, my wife and I, were audited.

I had the misfortune one year to make what was for me a great deal of money—so much, in fact, that my friendly H&R Block tax consultant told me that I must pay an enormous sum in addition to what I had already paid. This dreadful news came in the following year, of course, when we were so poor that we could have qualified for food stamps. Such roller-coaster family economics must be the lot of many—farmers, auto workers, the Hunt brothers—but I have since been told that nothing so alerts the IRS, sends flags flying and alarm bells ringing, and so arouses the killer instincts of its agents as eratic levels of income. "Normal" people, law-abiding folks, have steady incomes, like the IRS bureaucrats themselves.

When the notice from the IRS arrived, announcing that there were some questions they wanted to ask about my income tax form, I did what every God-fearing, righteous, thoroughly honest taxpayer would do: I panicked.

Ruth, my gallant, courageous and foolish spouse, told me to fear naught, for she would handle the entire matter. After all, it was no big deal: Didn't H&R Block advertise that if there was any problem he would be

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THE IRS STRIKES CONTINUED

THE IRS STRIKES -- TERROR IN A TAXPAYER'S HEART

at our side at the IRS and explain all? I went on my knees and kissed the hem of her blue jeans.

Confidently, Ruth picked up the telephone and dialed the number of the storefront office H&R had used during the tax season. (We had been in Europe for the previous 11 years; we had simply signed where we were told to sign.) The storefront tax office had, naturally, closed in May. I believed I fainted.

Courageously and persistently, Ruth telephoned until she tracked down H&R Block's regional office in Baltimore—a remote city of which we knew little. I was catatonic. However, it was finally arranged that she would meet a man in Falls Church. She did; the nice man said he would go with her on any day the IRS bureaucrat would talk with her. An appointment was arranged. Then for three days—three days of tension and fear as far as I was concerned—she went off each morning to sit in the interrogation room of the Internal Revenue Service. I made rapid strides towards becoming an alcoholic.

Each evening, when Ruth returned from the IRS, I hid the remains of my bitten fingernails and the scotch bottles and, summoning all my cool, calmly asked how the tax business was progressing. Her answers, always the same, did not reassure me. She sat silent while the tax consultant and the IRS man talked. It was, she said, rather like a tennis match, for she turned her head from one to the other as they spoke; and, like a tennis match as far as she was concerned, she understood nothing.

On the fourth and final morning I went with her to the dreaded IRS office and met the dreadful young IRS agent who was causing me such distress. Throughout this terrible ordeal, I clung to a statement I had often heard quoted, that the IRS wanted every penny due to the United States Government, but not one cent more. Surely I could not be sent to prison for honest mistakes made by H&R Block—at least not for long: 10 years maybe.

At last, when all the arcane conversation was finished, when all the numbers had been added and subtracted and my gross personal income recomputed, it was determined that not only had we paid all of the taxes we should have, but we had paid $3 more. Then came the most illusion-shattering experience of my life: The smiling IRS man off handedly asked us to forget it, for it would cost the government $100 in paperwork to repay us. Shameful to confess, I was so relieved that I consented.

Such an experience with such a happy ending might have quieted the fears of even the most paranoid of taxpayers, but this was soon followed by another happy experience which caused the paranoia to linger. The tax expert who told us we owed the additional enormous sum was not the same as the tax expert who computed our tax the following year, the year of our poverty. The latter concluded that we had overpaid the year before by about $8,000; he made out a form requesting a refund and, trembling, I signed it. Shortly after the IRS audit, a letter arrived from the IRS. Sweating and fumbling, I tore open the letter and a check tumbled to the floor, a check for the $8,000 plus interest computed at 6 percent. There was no letter of explanation. The IRS had, it seemed, simply agreed that we had overpaid.

It was all perfectly legal, of course. So I am told. My first tax expert had merely made a mistake which the IRS officials instantly recognized—when it was pointed out to them. Still I shuddered. And I continued to shudder, fearing every day that the IRS would say it was all a terrible mistake and that I must repay the money plus 20 percent interest. Now, at last, I can relax. Seven years have passed and I believe (let no one correct me if I am wrong) that the statute of limitations saves me from ever worrying again—until April 15.●

April 5, 1982 CONGRESSIONAL RECORD — *Extensions of Remarks* E 1491

THE IRS STRIKES -- AN ANGRY CITIZEN

THE IRS STRIKES—AN ANGRY CITIZEN

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 5, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of a citizen's anger over the heavyhanded and abusive tactics of the Internal Revenue Service in their tax collection practices is expressed in the following letter to a congressional office from an angry citizen in a Northeastern State regarding the size of the tax burden and what the collected money is used for, as well as the means used in its collection.

Passage of my bill, H.R. 4931, the Taxpayer Protection Act (TPA) will at least correct the collection abuses which will remain if recently enacted tax and spending reductions provide relief for citizens as predicted.

DEAR SIR: I am in receipt of your appeal for support. I am sure that some of the abuses you list do exist and certainly are worthy of your time and attention to correct. I have forwarded the enclosed cards to my own congressmen.

At the same time I find myself not too enthusiastic for this in light of the far more oppressing tax burden that I and my married children face everyday due to the fiscal irresponsibility of the Congress and the gross waste and corruption in the Welfare and Food Stamp program. I am angry at the IRS, but not at them as such but what they symbolize. Weeky I stand in lines at the supermarket and see well dressed people use food stamps to buy luxury food and take their wasteful purchases out to a new car while I buy necessities and drive off in my eight year old wagon.

I hear the anger and frustration in my daughter's voice whose husband works two jobs and attends night school as they struggle to survive, while across the street the family doesn't work because they make more on welfare. I hear the amazed incredulity of my other daughter who accompanies a public health nurse to a home where a young unmarried woman has a baby every year to get a "raise" in welfare. I drive by the house daily of a man with four children who finally qualified for welfare after turning down respectable jobs the community had secured for him.

I am sickened at what the Congress has done to lay a useless tax burden on myself and my families, currying favor with society's drones, encouraging illegitimacy, destroying the moral and familial fabric of our nation.

Until you get this horrendous mess straightened out, that is where my priorities will lie. These are the causes I will support. As a clergyman I believe in helping the genuinely poor who are cast into their role by circumstances they cannot help. I am also Biblical enough to echo the words of St. Paul: If they won't work, don't feed them. I believe the present food stamp and welfare programs have done more to undermine the greatness of our nation than any other single cause. Attack these and I will provide support to you and any other Congressman who will attack the problem at its root.

Sincerely,

—— ——.●

THE IRS STRIKES CONTINUED

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E 1488 CONGRESSIONAL RECORD — *Extensions of Remarks* *April 5, 1982*

THE IRS STRIKES -- MAKING INCOMPETENT ASSESSMENTS

THE IRS STRIKES—MAKING INCOMPETENT ASSESSMENTS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, April 5, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices—which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA)—is the following letter I received from a tax preparer in the Eastern States.

DEAR SIR: Please allow me to thank you for your efforts to tame the IRS, even a little bit. I know you have plenty of material to work on, but there is one thing I have not ever noted. That is the thousands of taxpayers who get a bill from the IRS and immediately grab their checkbook and pay it, without ever questioning the accuracy of the bill.

It has been the experience of our office that ten to fifteen percent of these bills are incorrect. In fact, we had a client who did just that and paid the IRS collector $515. (At the time, the IRS owed this taxpayer $3.10). It took us seven years, from 1967 to 1974, to get this money back. We are still trying to get the interest.

I wonder how long the American people are going to suffer from the arrogance, incompetence, and specious interpretations of IRS agents.

Mr. Hansen, allow me to thank you again for all you have done and hope to do, but all you can accomplish as long as we have this progressive income tax and the IRS is to apply Band-aids to a cancer.

Of course, the government has to raise money by taxes but, in my opinion, the only nearly fair tax would be a national sales tax with exemptions for staple food and medicine.●

E 1670 CONGRESSIONAL RECORD — *Extensions of Remarks* *April 21, 1982*

THE IRS STRIKES -- WITH X-RATED BEHAVIOR

THE IRS STRIKES—WITH X-RATED BEHAVIOR

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, I have been outraged by the overzealous practices of the Internal Revenue Service in their tax collection practices. Passage of my bill H.R. 4931, the Taxpayer Protection Act (TPA), will correct these overzealous actions and restore the public's confidence in our voluntary tax system.

The integrity of our tax system is often dependent upon the acts of its representatives or agents. Some examples of IRS agents' activities that damage this integrity and which management does not seem prone to root out have been made public in the press, whether it is the "mooning" of certain IRS agents as recently reported in the media or the following account of what appears to be a whole nest of "kinky" agents.

[From the New York Post, Oct. 28, 1981]

COPS SMASH KINKY IRS SEX RING

(By Mike Pearl, Charles Lachman and George Carpozi)

A phantom "movie producer" who has plagued the metropolitan area for more than six years by spanking thousands of college coeds in a phony search for the perfect "screamer," was unmasked yesterday as a Manhattan IRS collector.

Authorities suspect a number of other tax agents are involved in the widespread racket that produced tens of thousands of color photographs of the spankings he administered.

The photos were said to have been sold to girlie magazines, pornography stores in Times Square and distributed among IRS employes at 120 Church Street, Manhattan, where the agent worked.

He was arrested yesterday morning at the World Trade Center's Path Station by Manhattan District Attorney detectives Michael Lopez and James Lynam.

DA Robert M. Morgenthau identified the suspect as Stephen J. Davidson, 42, a $50,000-a-year tax collector from Glen Rock, N.J.

He was charged with victimizing women undergraduates from NYU, CCNY, Columbia, Hofstra, and other colleges by inviting them for "auditions" in a studio he maintained on West 56th Street.

Last night, Davidson phoned a doleful plea to his home for bail money. His wife's angry response, according to a DA's source, was:

"I'm not getting you out on bail. I'm not coming to pick you up."

A DA's investigator told the The Post that Davidson's duties as a tax agent enable him to carry on the scam.

A 22-year old NYU student, Karen Carreras, played detective and cracked the case.

Miss Carreras, who works in the student employment office, tumbled onto the scam after Davidson listed his phony movie jobs and her fellow students complained.

"He seemed to get off on the spankings," the DA's investigator said, "He acted out elaborate fantasies. There were many sexual overtones, but so far we have no direct evidence of any overt sex."

However, he did have one "hangup," according to the prober.

"He always asked the girl afterward whether she got any sexual gratification from the spanking."

Davidson had what the investigator termed "way-out Victorian techniques."

"The girls, who were always topless, were always give a red micro-mini-skirt to wear, a straw boater's hat, and Peter Pan collar. He administered 25 spanks to each of his movie hopefuls, who really believed he was going to sign them to a film contract if they gave him the screams he wanted to hear.

"He would put the girls across his knee, lift their miniskirts, and slap their butocks until they were screaming for mercy."

Davidson recorded all the sounds in addition to filming the "auditions," according to the DA's man.

The DA's office had heard bits and pieces about the phoney movie producer since 1975, but couldn't turn up leads on him.

Then two weeks ago—after an NYU girl answered the audition call—she went to Morgenthau's office and told her story to Assistant DA Linda Fairstein, head of the Sex Crimes Unit.

With a search warrant, detectives entered Davidson's office and secreted a television camera in the false ceiling. While there, the probers culled office records and found lists of girls who had been given "auditions."

The women who complained, returned to the studio on Miss Fairstein's instructions, stepped into the paraphernalia Davidson supplied, and let herself be spanked—giving an Academy Award performance with her screams.

So far, from the names that came into their possession, the DA's probers have found 20 young women who admitted they were victimized by Davidson.

"We believe there are thousands of others," said Miss Fairstein. "Now that the story is out, we expect those who were too ashamed to come forward and complain, will do so at last."

The investigator who spoke with The Post shook his head.

"Would you believe the irony in this whole thing is that none of the girls had anything bad to say about Davidson for the spankings he gave them? They were merely angry because he didn't pay them."●

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THE IRS STRIKES
CONTINUED

April 21, 1982 CONGRESSIONAL RECORD — *Extensions of Remarks* E 1683

THE IRS STRIKES -- WITH VIOLENCE

THE IRS STRIKES—WITH VIOLENCE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act—TPA—is their use of violence in disregarding any lawful procedures, constitutional rights, or basic decency and respect which should be extended to all citizens.

The IRS has been known to hit an entire community with a heavily armed strike force or even to use a force of 40 armed men against 1 nonviolent Amish individual.

The following account is one of many where violent measures have been used to inflict IRS demands upon the public.

In 1977, Mona and Stephen Oliver of Fairbanks, Alaska, received notification from the Internal Revenue Service Regional Office in Ogden, Utah, that they owed the IRS $3,300. No explanation of how this sum was determined accompanied the bill. The Olivers, while examining the IRS bill, discovered an error in arithmetic, so they wrote to the IRS and pointed out the mistake.

IRS bureaucrats made no response at first, but several months later the IRS informed the Olivers that they now owed $4,700, again failing—or refusing—to state how this figure was selected. The Olivers, who have always filed their income tax returns, continued to write to various IRS officials but received no adequate explanation.

By February 1979, the IRS had grown tired of the "obstinate" Olivers who refused to comply with the manifestly arbitrary assessment of the IRS. During this time the IRS changed its mind again and decided that the correct amount of taxes owed was $4,200. Then the agency proceeded to place a levy on Stephen Oliver's wages, which reduced the Olivers' income below the poverty level.

On August 1, 1979, the Olivers were informed that they now owed $9,000 in back taxes. That same morning, Stephen and Mona Oliver drove to Fairbanks federal building on business relating to the IRS. According to Mona Oliver, she and her husband were on the top floor of the federal building when "someone came up and said, 'They're towing away your car outside!' We were in such a hurry that we didn't even wait for the elevator . . . we ran down the stairs."

The Olivers found their car hitched to a tow truck. It had been towed off of the public street in front of the federal building and into the building's parking lot.

"I was upset, I was shaking. There must have been ten IRS agents around it [the car]. I said, 'Is it all right if we remove our personal belongings?' They said that was all right, so we started to take our things out of the car. I was so close to breaking into tears, but that was the last thing that I wanted to do in front of them," Mrs. Oliver said.

The Olivers claim that they were never notified by the IRS that their property was going to be seized. In any event it is unusual and perhaps foolish to place a levy on a person's wages and then seize his only means of transportation to work.

As she was unloading her belongings, Mrs. Oliver thought to herself, "Where are they taking my car? If they're taking my car somewhere, I want to know where."

She said, "So then I just sat down on the seat, closed the door, and locked it."

Stephen Oliver quickly joined her in their small dilapidated Volkswagen. He sat in the driver's seat and locked his door too.

This defiance of the IRS infuriated the agents, who began yelling threats and warnings at the Olivers. IRS agents quickly summoned the city police to help them against the unarmed Olivers and from the rapidly gathering crowd of onlookers.

The operator of the truck towing the Olivers' Volkswagen was shaken when he learned that the IRS agents did not have a court order allowing them to seize the car. The driver uncoupled his truck from the Olivers' car and left. The IRS agents immediately surrounded the Volkswagen with vehicles of their own. Members of the large group of bystanders sympathetic to the Olivers' plight suggested that they might remove the IRS vehicles and set the Olivers free. Stephen Oliver vetoed the idea. Minutes later his car was chained to an IRS agent's jeep.

For seven hours the determined Olivers held their position inside their car until the IRS secured a search warrant from a magistrate brought in by the IRS specifically for that purpose. (It is difficult to imagine what the IRS was "searching" for in the Olivers' car.)

"With no warning at all, they began smashing the windows with billy clubs," Mona Oliver said. "I saw them start on the driver's side; my husband's arm was right up against the glass. I thought, 'If I put my hand up against the window they'll see it and won't break the glass.' But they smashed the window right into my hand," she said.

After the IRS agents had hurled Stephen from the car, they went after Mona. Several agents dragged her across the broken glass and shoved her onto the pavement, leaving her bruised and bleeding. Even under the authority of a search warrant, what these IRS ruffians did is tantamount to assault and battery. These agents seem to have knowingly committed the crime of assault by using excessive force against non-criminal, nonviolent citizens in a civil matter.

A government-owned tow truck soon whisked the car away. The next day the IRS informed the Olivers that they now owed "only" $4,010.

On August 23, 1979, the Olivers' Volkswagen was auctioned for $500. The crowd of protesters who had gathered outside the building where the auction took place was photographed by IRS agents. License-plate numbers of those at the rally were taken down.●

E 1692 CONGRESSIONAL RECORD — *Extensions of Remarks* April 21, 1982

THE IRS STRIKES -- WITH GUNS

THE IRS STRIKES—WITH GUNS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by the passage of H.R. 4931, the Taxpayer Protection Act (TPA), is their overzealous enforcement using weapons.

The IRS should go to great lengths to prevent armed confrontation with the taxpaying public. However, it appears that many times they go overboard with their militia to publicly make their presence known, to instill fear, and to remind the public not to question their awesome authority.

The following story is a good example of these unbelievable practices.

Hallie Snyder was alone in her home in Oakland, Md., with her 5-year-old daughter on the morning of February 20, 1980.

She had just sent her 9-year-old son off to school. Her husband, Dwight, was working in his small cabinet shop located next to their home.

At 9 a.m., someone knocked on the door of the Snyder residence. As

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THE IRS STRIKES CONTINUED

THE IRS STRIKES--WITH GUNS

Hallie Snyder walked across the living room toward the door, it was flung open by a man carrying a high-powered automatic rifle. Eight men, all heavily armed, burst into the room with weapons pointed and ready to fire.

Next door, James Dwight Snyder was busy at his saw cutting out a set of custom-made cabinets. He heard the door to his shop swing open and turned his head instinctively. "Freeze!" someone shouted. Snyder looked down at the floor in front of the entry to his shop. Several men carrying M16's and submachine guns lay in the prone position with their weapons aimed at Snyder.

Outside, in front of Snyder's shop, State policemen had blocked off the road. Federal marshals and IRS special agents armed with M16's had surrounded the Snyder property. More than 30 men had just captured the unarmed Snyder family.

James Dwight Snyder is no criminal. He has no criminal record and has never been accused of a crime, and neither has his wife.

In fact, the IRS agents who attacked Snyder and his family knew this. The Internal Revenue Service had not come to arrest Snyder, but to seize his property for his alleged failure to pay income taxes in 1971 and 1972. Whether or not Snyder actually owes the money claimed by the IRS has not yet been decided. At the time of this writing, Snyder has two cases pending in the Fourth Circuit Court of Appeals. The Snyders had no idea that the IRS was going to grab their property.

About 10 of the IRS agents immediately began tagging various household goods, equipment in Snyder's workshop, vehicles, a tractor, and numerous other items belonging to Snyder. (They even tagged Snyder's mother's pickup truck.) The 20 remaining storm troopers camped around the edge of the Snyder property keeping an eye on Snyder, his wife, and their daughter "preventing them from interfering in the seizure of Federal property." Late that afternoon the IRS brought in a moving van and three wreckers and proceeded to haul their loot away.

All of this done without a search warrant. Because Snyder had committed no crime—indeed, the IRS would not accuse him of a crime because this would have given Snyder the opportunity to a trial by jury—a search warrant could not be issued. The IRS, however, got around this obstacle by a technicality called a writ of entry. This order of entry, along with section 6331 of the IRS Code, allows the IRS to seize, by force, a citizen's property without due process of the law. The IRS seized thousands of dollars' worth of property from the Snyders and sold some of it at public auction.

The Snyder case dramatically demonstrates the police-state power and mentality of the IRS. An Internal Revenue Service official in Baltimore who was asked to explain why the IRS sent in more than 30 armed men stated, "When resistance is anticipated, steps are taken to assure the safety of the IRS officials * * * involved."

Yet Snyder, a father of three who has never had as much as a traffic ticket, a member of the Dunkard Brethren Church, a fundamentalist group that, like his Amish neighbors, hews to ideals of pacifism, hard work, family values and plain living and frowns on television, movies and similar worldly diversions, was considered such a threat to require more than 30 armed men, without a search warrant, to illegally seize his humble possessions.●

THE IRS STRIKES -- MUSCLING THE MIDDLE CLASS

THE IRS STRIKES—MUSCLING THE MIDDLE CLASS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA) is the following letter I received from a disgruntled accountant in the Northeast:

DEAR SIR: I would like to commend you for the initiative you are taking by introducing the Taxpayer Protection Act (H.R. 4931). Of all the problems which face legislators today, few if any, represent such a direct contradiction to the nature of our country and the intent of our Constitution than the illegal powers granted to and/or established by the Internal Revenue Service. This power, together with the overwhelming complexity of our laws, gives the IRS virtually total unencumbered ability to interpret a taxpayer's liability and enforce collection in any way it (the IRS) chooses. My major, in college, was accounting and I worked in public accounting for about six years. I have prepared hundreds of tax returns and have had encounters with the IRS at various levels and for various reasons during those years. I could relate to you stories known to me, because of my professional interests, during that time. However, I am certain that you know these same stories as well as I, if not better. There have been newspaper and magazine articles, books and television documentaries on the subject. So the question is: Why have "we the people" allowed this to go on for so long? It should suffice to say that my empathy for the taxpayer and disdain for the system of tax collection precluded me, ethically, philosophically, morally, and emotionally, from taking part in this process. I no longer work in the field of public accounting. However, sometimes I feel guilty for abandoning the taxpayer and leaving him one less advocate. Therefore, I will throw caution to the wind (for our sake) and allow you to use this letter, in anyway, if you feel that it could be of some benefit.

The middle class, of which I am a member, the W-2 wage earner bears the brunt of this burden and exploitation. We support the country with our taxes and are the target of the greatest number of audits made by the IRS. Strangely enough, we are the least likely to cheat on our taxes because the vehicles for cheating are not available to us. However, the middle class provides the most efficient means for the IRS to enforce collection through its use of intimidation. Because the middle class comprises the largest block of taxpayers, we provide tremendous "word-of-mouth advertising" for the IRS. This is not conjecture or theory. While I was in public accounting, attending tax seminars, I listened to IRS Directors explain this principle of effective, low cost, high benefit, efficient tax collection. The IRS was, and probably still is, proud of this technique. However, my clients, at that time, were frustrated and almost paranoid. I learned, first hand, that if this country ever has another major revolution it will be the middle class in a tax revolt. God help us! It isn't necessary. It's our country, our laws, our taxes. Isn't it?

In conclusion, Congressman Hansen, I support you and urge you to continue towards your goals of tax collection reform and tax reform in general. I am confident that you can only receive tremendous public support. This issue transcends all partisan affiliations for any person who calls himself a citizen of the United States. It is the duty of all elected representatives to tackle these difficult issues. Please, make our system work!●

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THE IRS STRIKES CONTINUED

April 21, 1982 CONGRESSIONAL RECORD — *Extensions of Remarks* E 1699

THE IRS STRIKES -- AND THE RULES KEEP

THE IRS STRIKES—AND THE RULES KEEP CHANGING

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA) is the following letter I received from a citizen in Pennsylvania.

Dear Sir: Why should we taxpayers have to combat the IRS as though they were an enemy? They are not. They must obey the rules the same as anyone else. Rules that Congressmen, like you, lay down in the House.

I am a Kings Pointer, class of 1942, and I am thoroughly familiar with "Rules and Regulations." When the rules are laid down, they go for "all hands" which includes the admirals.

The IRS has just tried their "hassle" act on my 1979 tax return. I promptly wrote back, quoting their rules and regulations, and told them "You are in error!" Scare me? No way! I've already faced death many times in torpedoings, bombings, strafings, and worse through the eye of two hurricanes.

I am, however, fed up with the way they change the rules month by month. You Congressmen are going to have to lay down rules for them to abide by and set up definite prison terms if they fail to obey the rules. No wrist slaps. No dismissals. Prison terms like everyone else gets when they disobey.

Good luck in your fight. I am with you all the way.●

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THE IRS STRIKES -- AND PEOPLE DIE

THE IRS STRIKES—AND PEOPLE DIE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA), is the following story wherein the IRS arbitrarily drew an unauthorized check on a taxpayer's account of $39.65. This citizen decided to fight the illegal practice, and as all too often happens, he lost—in this case his life.

There are many episodes involving death attributed to the strain of dealing with the IRS but the facts outlined in this account make it especially tragic.

DONALD MCGRATH

Donald McGrath did not believe that he owed the IRS $39.65. He wrote to them and told them so. He asked to have an Internal Revenue Service official meet with him and explain to him why he owed thirty-nine dollars and change. The IRS never did respond.

According to McGrath, "Sensing that the IRS may try to implement a seizure on my account, I wrote to the bank and asked them not to honor any IRS demands other than by my consent or an order issued from a competent court. I then received a note from the bank stating that they . . . would honor an IRS levy. . . . Shortly I received another letter from the bank stating that they had turned my money over to Mr. Thoen of the IRS and sent me a canceled check they had forged on my account ($39.65)."

It was a small sum, but Mr. McGrath was furious. Donald McGrath, crop duster and farmer, acting as his own attorney, filed a claim against his bank in district court.

In the meantime, McGrath agreed to pay half of a $3,000 loan he had taken out with his bank to purchase combine, but, because of displeasure with the bank over the IRS incident, he refused to pay the remainder until the courts made a decision on the levy made by the IRS. The battle in the local courts between McGrath and his bank and the IRS raged on for months until Tuesday, July 29, 1980, when an order to seize McGrath's combine was issued by a local court.

The Grand Forks, Minnesota, *Herald* carried the following account of the next fateful day:

"The incident occurred after Schroeder, Lt. Larry Bangle and Sheriff Deputy Robert Rost escorted an implement dealer's truck to a farm field where McGrath's combine was located. Officers had served notice on McGrath Tuesday warning him that they intended to seize the vehicle.

Sheriff Taylor said the deputies arrived at the field about 11:30 a.m. and were told by someone on the site that McGrath had said not to move the combine because he was coming back with a gun. Taylor said the person was not a member of the McGrath family."

The combine was picked up and sheriff's vehicles escorted it toward Grand Forks on County Road 4 with one car heading the entourage and another behind.

Taylor said McGrath's car approached the group from the rear when they were less than two miles from Grand Forks and passed one car and the truck with the combine, cutting in front of the two vehicles.

McGrath, his wife and son were in the car. McGrath jumped out and words were exchanged, Taylor said. He said one sheriff's car pulled in front and blocked the road, warning McGrath on his loudspeaker that they were from the sheriff's department and that he was under arrest and should drop his weapon. The trucker towing the combine pulled into a ditch.

Taylor said McGrath got in his car, which drove straight toward the sheriff's car. His son was driving while McGrath leaned out of the passenger's side window with a pistol. A number of shots were exchanged between McGrath and Schroeder, Taylor said, and the flurry ended when McGrath was shot [in the head] through the windshield with a 12-gauge shotgun. Schroeder was the only one from the department to fire. [The police report admits that Schroeder many have fired first. McGrath was the only person injured in the foray.]

Taylor said that McGrath, 51, appeared to be the only one in the car who fired at officers. [It is far from clear that McGrath was actually firing at the officers since his bullets only hit the tire of the other car.]

The sheriff said McGrath apparently has no criminal record.

McGrath was taken to the hospital in critical condition. His son, who had driven McGrath's car during the incident, was charged with attempted murder. Mrs. McGrath was charged with being an accomplice to attempted murder—even though she was merely riding in the back seat of the car when her husband was shot.

A week later, Donald McGrath died from extensive brain damage he suffered as a result of "a shotgun would to the head and massive loss of blood leading to shock from the time he was injured until he received medical care." *All of this stemming from a disagreement over $39.65—arbitrarily assessed and arbitrarily collected.*

Congressional Record—*Extensions of Remarks* *November 21, 1981*

IRS DEMANDS -- PAY UP OR ELSE

IRS DEMANDS—PAY UP OR ELSE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Saturday, November 21, 1981

● Mr. HANSEN of Idaho. Mr. Speaker, several months ago, Mr. Ira Rosen, a CBS-TV News associate producer for the program "60 Minutes" came to my office to verify or challenge the findings of Internal Revenue Service abuses revealed in my recently published book.

This publication by Simon & Schuster, entitled "How the IRS Seizes Your Dollars and How To Fight Back," was released in April 1981 and draws "from several large file drawers of documents and testimony collected from frustrated Government employees and indignant citizens."

The book was written as a result of considerable research, data-collection and ad hoc hearings accumulated for presentation to congressional committee hearings and investigators, and to the Justice Department and IRS officials; and was finally published to better achieve this purpose through an expanded public information program calling for needed reform.

Mr. Rosen informed me that IRS and congressional committee staff rejected my contentions as "never happening" or "no longer happening." He wanted to know whether I could prove otherwise. Here we were with the pious, never-do-wrong bureaucrats sitting in front of the innocent-looking, but locked agency door challenging anyone to prove that they are harboring a hidden stable of man-eating fiscal alligators.

Well, they are doing just that, and I provided the documents and proof, with assistance from other concerned people, to convince "60 Minutes" they had a reliable story to tell on the abusive behavior of the IRS.

Over a period of months, I continued to provide documents and witnesses and interviews, and to validate information to assist an exhaustive effort by Mr. Rosen and "60 Minutes" host Morley Safer to achieve maximum credibility. This unusually painstaking exercise in accuracy become necessary because of the very nature of the IRS itself, its demonstrated ability to retaliate against its critics, no matter how powerful, and actual threats of such retaliation from IRS officials and other defenders in certain staff positions in the Congress.

The program resulting was good in its accuracy and its confirmation by reliable people, both inside and outside the agency, of scandalous abuse of citizens at all levels in IRS tax collection practices. However, the resulting program, for the same reason, was so restrictive that the full magnitude of IRS abuses remained untold. Hopefully, this can be more adequately done in the days ahead.

Many taxpayers are suffering at the hands of the IRS. Unfortunately, however, Congressmen, Government executives, and judges can also be audited, investigated, and intimidated without good cause, as can people in the media. Thus, a fearsome creature has been created which too many want to avoid tangling with. But the awesome powers of the IRS, not only to act under the law, but to act above the law, must finally be curtailed by a Congress made to realize that they have more to fear from their unhappy constituents, than they do from the self-serving intimidating ways of the IRS.

The following transcript (Vol. XIV, No. 7) of the November 15, 1981, "60 Minutes" program entitled "Pay Up or Else" is included here for the benefit of my colleagues and all citizens interested in knowing what the IRS is doing that is causing such a ground swell of complaints among Americans everywhere:

AUDIT THE TAX MAN

—CHARLES SHEFKE: The IRS is probably the most pernicious organization that the Federal Government, our legislators, have ever created. And if I had to parallel it with any other kind of organization in the world, I would parallel it with the KGB, probably the Gestapo.

—MORLEY SAFER: We talked to a revenue agent still working for the IRS and four other agents who recently left the service. Jack Elliott was an agent for the IRS for more than twelve years. Gary Dutloff left after seven years. Sharon Fields resigned after six years. Bob Braun is still a working revenue agent in a Pontiac, Michigan office. And Charles Shefke who quit he says because he, like the others, was being asked to intimidate relatively innocent small fry.

—CHARLES SHEFKE: The poor taxpayer who wants to come up and be up front and tell you his story and tell you what's wrong literally exposes himself to getting the worst treatment that IRS can lay on him.

—GARY DUTLOFF: If the revenue agent wants to, he or she can attach any property publicly available belonging to the taxpayer who is more than ten days delinquent in paying the taxes.

—SAFER: So, in effect, does not need a warrant?

—DUTLOFF: Does not need a warrant, does not need to see a judge.

—BOB BRAUN: The revenue officer is essentially, when it comes down to a bottom line on it, a prosecutor, a judge, and a jury, and then he's the cop that goes out and executes it also.

—SHEFKE: Justice Marshall said that the power to tax includes the power to destroy and we enforce the tax laws and we go out and destroy people. We literally destroy their life, their livelihood, everything.

—SAFER: That almost happened to this man, Maurice Bishop, owner of All-Time Pest Control of Benton Harbor, Michigan. The IRS made an agreement with him under which he was to pay off his forty thousand dollar tax debt over a two year period. Bishop was paying on schedule and one day the IRS walked into his office and he says, like skilled shakedown artists, demanded the entire amount in cash there and then.

—MAURICE BISHOP: He took his finger and struck it in my chest.

—SAFER: You mean he was doing that sort of thing?

—BISHOP: Right, he stuck his finger in my chest and told me, I done told you what I want you to do, and you're going to do it, otherwise we're going to, he kept saying, take your stuff and sell it for nothing and apply it to the debt.

—SAFER: Several days after the meeting the IRS practically put Bishop out of business. They put a lien on all his business assets, nearly four hundred thousand dollars worth for that forty thousand dollar debt. Bishop feels it wasn't just the money the IRS was after.

—BISHOP: They was trying to show me, since it was well known in the community, how they could really treat me so terrible and not tell everybody else about it, and that's what they were doing. They really didn't care whether I paid the taxes or not. That's just the way I feel, felt about it at that time.

—SAFER: Fear, they wanted to spread some—

—BISHOP: They wanted to throw fear into the community. They did, because I told everybody I came in contact what was happening with me and the IRS.

—SHEFKE: The revenue officer on the front line can go out and do that to people and in point of fact, if he's the kind of revenue officer they want, that's what he will do. They do want to intimidate the American people. They do want to scare them.

—BISHOP: At one point I thought about leaving the country. I used to get up and walk the floor at night because I could see ever since I left Detroit in 1958 I worked about eighty to a hundred hours a week, and I'm going to, they're going to destroy all of this for me, and I have no way to, what could I do if they took my business and sold it? I had a family involved there, the people that are working for us are involved, the people that we owe, they would have all been losers. That's why I couldn't understand why they did what they done and I never will live long enough to understand that.

—SAFER: Why such brutal behavior when the IRS had already made an agreement with Bishop to pay off his tax debt? An internal IRS memorandum, for example, shows the kind of pressure that is exerted on its men in the field. From Manchester, New Hampshire—"look over your inventory select one good taxpayer account for seizure action." A Grand Jury in Fort Worth recently indicted two IRS officers on charges of falsifying nearly two hundred federal tax records in order to meet office production quotas.

You still work for the IRS, Bob?

—BOB BRAUN: I do.

—SAFER: Is all this familiar stuff to you?

—BRAUN: Absolutely.

—SAFER: Does it still go on?

—BRAUN: To a very great extent, yes. The, the whole idea of things being done for their statistics, for the number. If you want to move ahead, and go into management, which supposedly where all good revenue officers are supposed to wish to be, the way to get there is to have a good track record in seizures.

—GARY DUTLOFF: Eighty percent to eighty five percent of the management meetings would deal with comparative statistics. Each manager would wear those statistics on their, on their sleeve.

—CHARLES SHEFKE: In all the time I was in the service, I probably made fifty or sixty seizures. I can think of only two cases where a seizure was really warranted. And in point of fact, had I not seized the property, had I given the taxpayer an opportunity to pay the taxes, we would have collected more than I got in the seizure.

(continued -- reverse side)

IRS DEMANDS -- PAY UP OR ELSE (continued)

Roscoe Eggar: But we go to great lengths to avoid seizure. We go to great lengths to make sure that every single consideration has possibly been given the taxpayer that could be given to him in order to avoid that kind of drastic action.

Safer: Roscoe Eggar is Commissioner of the IRS. He's been on the job since last March.

And you say that promotion, advancement, and even salary are not contingent on producing numbers?

Eggar: Absolutely not. We have very strict rules against it.

Safer: But it wouldn't surprise you if I told you that it continue to go on?

Eggar: It would surprise me if you said that it continues to go on because I don't think in recent years it has gone on other than those exceptions where somebody fails to follow the rules. After all, we're interested in collecting the tax and we're surely not interested in putting people out of business.

Ron Nicholson: They told us right when they came in, if we had the money fine, they would be gone. If not they were going to close us up, we were out of business.

Safer: Just like that?

Nicholson: Just like that.

Safer: Nicholson Machine Products Incorporated of Trenton, Michigan had been in business for thirty-nine years until the IRS seized the business for back taxes of around thirty thousand dollars. Ron Nicholson ran the business. Virginia Moore was his Office Manager.

Virginia Moore: We have parts that we need for Ford Motor Company that should now be in production. We cannot produce because we can't get out into the shop.

Safer: Why not?

Nicholson: Because the United States Government owns it right now, as such, until we pay that money, we can't get back there.

Safer: But don't you have the keys?

Nicholson: No, they locked up everything.

Safer: Would you be trespassing now if you went into your own back shop here?

Nicholson: Certainly would.

Safer: Unlike Maurice Bishop and his extermination firm, Nicholson Machine couldn't work out a partial payment agreement. Ron Nicholson just didn't have the money. His business, like other suppliers to the auto industry, is in bad shape.

It is the duty of governments, or albeit part of government to collect taxes. You would agree, no?

Nicholson: Certainly would. The only thing there we've been in business for thirty nine years, we've paid millions of dollars worth of taxes I'm sure, and not that we're going to, all we wanted was a chance.

Safer: The IRS man is the arresting cop, the judge and the jury all wrapped up in one. Nowhere else in our society does this sort of thing happen.

Roscoe Eggar: We are properly examined and reviewed by more members of Congress and more committees of Congress than any other agency and if the Congress really believed that we were abusing those powers, I can't, for a moment, think that they wouldn't be doing something about it.

Safer: But Congress has tried. Several pieces of tax reform legislation have been proposed over the last four years, not a single one has passed into law. One Senator who held hearings last year into IRS practices, is Carl Levin of Michigan.

Carl Levin: I think this is the only agency that I know of in this democracy of ours that has such dictatorial powers. They must have powers, they must have powers to seize assets under certain circumstances. But there is no reason to give them powers beyond those needed to carry out their job. There is no reason why, in this democracy of ours, we have a little Kremlin that goes on and on, as far as I'm concerned, without adequate controls. The question is how can we get that money into the Treasury best? And the use of quotas for seizures has never been shown to be the best way to do it and it has very harmful effects and violates their own rules.

Safer: If it is a power unto itself, a renegade, how did it get this power?

Levin: I would say it's the natural power to give our tax collector as many powers as possible to increase the yield of the treasury.

Safer: But you legislators have sat on the FBI, on the CIA, some would say you put too many restrictions on what they can do. And yet, the IRS, still runs wild and free.

Levin: (cross voices) . . . Well they're collecting money for us. They are collecting money for us is the only explanantion I can give for this go-along attitude.

Safer: Does the IRS hold the power of fear over the Congress to some extent?

Levin: I think it does.

Safer: And there are some examples to back up what Levin says. The late Senator Edward B. Long of Missouri held these hearings on IRS methods back in 1965. Agents and taxpayers testified on the abusive nature of the service.

Senator Edward Long: There appears to be a festering infection in the IRS which must and shall be corrected.

Safer: Shortly after, tax information about Senator Long was leaked to *Life Magazine* and he was defeated in the '68 election. In the mid-70's Senator Joseph Montoya of New Mexico also had hearings into IRS abuse.

Victim: I said I don't understand. You made me sell a house, get rid of my home that I didn't have to get rid of. I said now you're going to send me the money back? I said there has got to be something wrong with you. I said the whole darn Internal Revenue Service.

Safer: Around the same time as these hearings, confidential information about Senator Montoya's taxes was leaked to the Washington Post by the IRS. Senator Montoya was defeated in his re-election campaign. The IRS later admitted it was in error and in fact paid him a refund. And there was Jack McDonald, former Congressman from Michigan. Ten years ago when he was in Congress, he was a member of a House Public Works Sub-Committee. The committee held hearings into a request by the IRS to move its Detroit computer office out into the suburbs. The committee in general, and McDonald in particular, was against the move.

Jack McDonald: We told them no, they couldn't move the facility and to find a facility within the city which they did some six months later.

Safer: So the IRS went away from, with its tail between its legs, from the committee, correct?

McDonald: Only for twenty four hours.

Safer: Because, then what happened?

McDonald: Then, the following day, my tax was called in for audit and my committee chairman's tax was called in for audit, and members of his family's tax was called in for audit.

Safer: And what was the result of that audit?

McDonald: The audit came out with no change. However, I was audited for the next five years.

Safer: What was the IRS's response to, I would guess, your accusation that you were being audited purely because you turned them down in sub-committee?

McDonald: Their response was it was just a coincidence.

Safer: And Congressman George Hansen of Idaho was the subject of an IRS investigation that was leaked to the press and eventually dropped. That experience is not unrelated to his becoming the IRS's toughest congressional critic. Congressman Hansen's staff counsel, Jim McKenna, has been working on legislation to reform the IRS.

Jim McKenna: The fact of the matter remains that you have a coercive system without recourse, run by people who have no sensitivity to the rights of the citizens, and it has been, for twenty years, an impossible task to get any meaningful reform to protect the citizens.

Safer: So how do they get away with it? Where have you guys been in all these years?

Congressman Hansen: Everytime you allege they're doing certain things, by the time you prove it, they say, oh well, if we did that we've changed our policy.

Safer: Just one of the things the IRS did do, and there's a pictorial record of it, is the case of Mona Oliver, a tax protester from Fairbanks, Alaska. The IRS came to seize her car. She locked herself inside. Agents proceeded to smash through the windows and dragged her away through broken glass. They subsequently sold the car for five hundred dollars.

Roscoe Eggar: In this particular case we mde judmental errors, errors of just human judgment, under what ever the circumstances were. As a direct result of this, we have changed our procedures. We now require that no revenue officer use force in making a collection unless either his personal safety is jeopardized or that of a third party.

Safer: What would happen if you just dropped those tough nut cases?

Eggar: If we made it known that we would never take that drastic action, then it wouldn't be long until those taxpayers, the hard core, who want to resist payment of their taxes in all events, would use that as a way of doing so.

Safer: So in less oritund language, it's fear?

Eggar: Well that's your term, not mine. I just chose to say that it's a part of our review program.

THE IDAHO STATESMAN
NOV 15 1981

Hansen to appear on '60 Minutes'

Idaho Congressman George Hansen will discuss alleged collection abuses of the Internal Revenue Service on the beginning segment of the CBS program *60 Minutes* tonight.

Hansen, who is a senior member of the House Banking and Finance Committee, is the author of *How the IRS Seizes Your Dollars*, published by Simon and Schuster.

The *60 Minutes* segment will focus on material from the book and on information furnished by other congressional sources and current and former IRS officials. It will include an interview with Hansen by Morley Safer.

Curb The Powers Of The IRS?

SMALL BUSINESS BULLETIN MARCH, 1982

YES

U.S. Congressman
George V. Hansen, (R-ID)

It is becoming increasingly obvious that something has gone drastically wrong with the tax collection system in the United States.

For several years, I have been publishing histories of abuses by the Internal Revenue Service against ordinary taxpayers. Some people have defended the IRS on the grounds that these abuses are brought on by the taxpayers' own misconduct, i.e., that the ones whose property is seized without notice or who are raided by men armed with automatic weapons are delinquents.

Aside from the fact that such an attitude says that our civil rights are available to us only so long as we are not accused of a crime, it is also untrue. Much of the excess of which the IRS is guilty is equally used against the ordinary man trying to do his best to report and pay his taxes. But even more to the point, we all suffer when the IRS and the local United States Attorney arrange to tamper with the right to a fair trial by jury rigging.

The very nation itself is the victim when a government agency initiates illegal electronic surveillance. Our capacity to govern ourselves is at issue when the IRS subverts limits placed on them by Congress and even undertakes to misrepresent its activities in hearing after hearing before committees of Congress.

My Taxpayer Protection Act is aimed at limiting the damage IRS can cause. It is a large step toward controlling IRS abuse. But H.R. 4931, the TPA, will only work when the people indicate to the Congress and the Executive Branch that they will no longer tolerate a police-state for the dubious benefit of raising a few more dollars for the Federal Treasury. As usual, only the people can force reform. **In the case of the IRS, we are in dire and immediate need of that reform.**

THE AMERICAN LEGION December 1981

Rep. George Hansen (R-ID)

Yes. The story of the Internal Revenue Service is a history of a tax collection agency drunk with power, ruthlessly smashing dissent among its own personnel and brazenly roughing up taxpayers at will. The IRS defies and intimidates its Congressional creators to go virtually unchallenged in its blatant illegal exercise of awesome powers against the American public.

If the IRS decides that you have underpaid your taxes, it has and uses the right to assess what it decides you owe and then, without court proceedings or order, it can and often does lien and take all but $50 of your weekly wages. Also without court order, it can seize your home and sell it, no matter how much or little you owe. Upon the sole signature of the local IRS office supervisor, it can and does seize bank accounts, automobiles and anything else it can find, all without you—the victim—ever having a chance to make your case in a court of law. The IRS is prosecutor, judge and jury and you have little or no recourse from its findings.

Two of the most recent Commissioners of Internal Revenue have testified before Congress that fear is an essential element in the collection of income taxes from individuals. This was demonstrated in Colorado recently: in a mass strike against a small community, the IRS seized and sold the $80,000 home of a tax delinquent for $1,600, not one cent of which went to reduce the alleged tax delinquency. The seizure and sale were purely punitive—to teach the taxpayer and the rest of us a lesson.

This is not unusual. A memo from an IRS official to one of its attorneys clearly states the underlying reasoning for banging on a taxpayer when it produces no money for the government, ". . . the taxpayer is committed to spend time and money defending his position." More such examples of IRS abuses are described in a book I wrote on this subject, which offers advice on fighting back against the IRS.

To curb IRS abuses, I have introduced the Taxpayer Protection Act (H.R. 4931), which reduces the agency to its basic function as a collection service for taxes with the same power for debt collection as other government agencies and businesses.

The IRS itself admits that 97 percent of all personal income taxes are paid voluntarily without need for any collection activity. Why should IRS problems with 3 percent of the people open the door to police-state tactics which not only are counterproductive, but which also cost us dearly in terms of liberty and dignity, whatever the income generated. Congress must demand that the IRS get back to collecting taxes, not scalps.

"Internal Revenue agents are supposed to be employees of the people. In this book, Congressman George Hansen documents in a serious way how they have been misbehaving. **EVERY TAXPAYER MUST READ IT.**"
–Jack Anderson, nationally syndicated columnist

How the IRS Seizes Your Dollars and How to Fight Back

Congressman George Hansen with Larrey Anderson

A.C.T. TO STOP I. R. S. ABUSES

Association of Concerned Taxpayers
418 C St., NE • Capitol Hill • Carriage House • Washington, D.C. 20002

(SECTION A - Exhibit #1)

Internal Revenue Service

Department of the Treasury

Washington DC 20224

Person to Contact:
Mr. John O. Lohmeyer, Jr.
Telephone Number:
566-6113
Refer Reply to:
CP:CI:O
Date: 26 OCT 1979

Mr. Philip Wilens, Director
Office of Enforcement
Criminal Division
Department of Justice
Washington, DC

Dear Mr. Wilens:

In re: Use of Electronic Listening Devices
John E. Grandbouche
Englewood, Colorado

The Internal Revenue Service is currently conducting a conspiracy and tax investigation of JOHN E. GRANDBOUCHE, Lakewood, Colorado. GRANDBOUCHE has been identified as the state and national leader of a radical protest movement known as POSSE COMITATUS. He is also the organizer and controller of NATIONAL COMMODITIES AND BARTERING ASSOCIATION. The bartering association consists of the tax protesters bartering in goods and services as well as gold and silver; GRANDBOUCHE is the organizer and leader of this organization and THE COMMITTEE OF TWO HUNDRED THOUSAND. The latter is a Colorado based organization with a goal to overthrow the Federal and State governments.

The reason for the monitoring is to identify the techniques being utilized in the receipt and hiding of income derived from the previously-named organizations as well as the location of assets of these organizations including the identity of income items to JOHN GRANDBOUCHE and the location of assets of JOHN GRANDBOUCHE. In addition, a confidential source has alleged that during the last 48 hours, there has been open discussion in the source's presence between GRANDBOUCHE and JERRY MANKA, a regional organizer in the tax protest movement and an employee of GRANDBOUCHE, regarding the killing of a Federal judge and a Revenue Service employee in North Texas within the next two weeks as well as discussions relating to the killing of a judge in Texas sometime back. The purported reason for the judge's killing was that he had sentenced a tax protester to 45 years.

The confidential source has agreed to monitor any non-telephonic conversations that may occur between GRANDBOUCHE and MANKA and/or any other individuals who may be present during those conversations.

EXHIBIT A

Mr. Philip Wilens, Director
Office of Enforcement

Although the reliability of this confidential source has not been totally verified at this point in time, this may be the only avenue available to identify the trail or the amounts of monies being received by JOHN GRANDBOUCHE and the POSSE COMITATUS tax strike organization. Without the use of the techniques being requested, it may be impossible to prove any type tax violations on the key individuals, such as GRANDBOUCHE, who are openly advocating tax evasion and the overthrow of the Federal tax system. In addition, this monitoring could be of great assistance in the solving of the murder of one Federal judge in Texas and possibly prevent the killing of an additional Federal judge. This activity is being coordinated with the Internal Security Division of the Internal Revenue Service and Internal Security Inspectors are working jointly with the Special Agents, Criminal Investigation Division. In addition, appropriate officials have been notified of the possible danger to the Federal judge in Texas.

The equipment to be used is owned by the Service and will be installed and operated by agents trained for that purpose. A body-mounted transmitter and recorder will be installed on the person of the confidential source and in the premises and/or under the confidential source's control, and remote recording and receiving devices will be used. Conversations to be monitored will take place in or near Englewood, Colorado.

On October 24, 1979, using our emergency procedures, the Director, Criminal Investigation Division, Internal Revenue Service, authorized the use of electronic listening and recording devices. In order to corroborate the threats which have been made and to obtain the necessary evidence as outlined above, the Service requests that you concur with our emergency authorization and that you further authorize the continued use of these electronic listening devices for a period of 30 days.

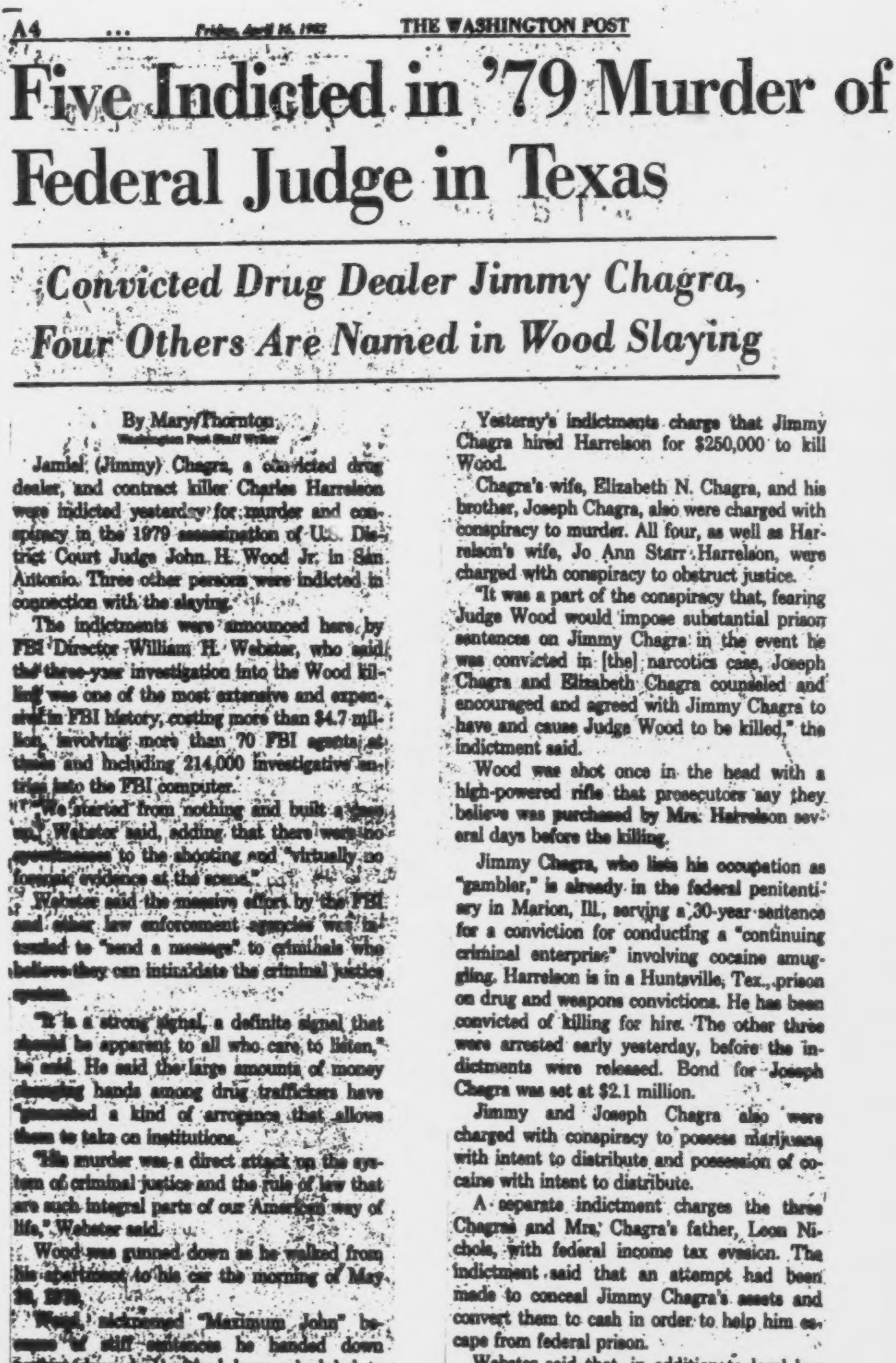
This request is in the interest of effective law enforcement.

Sincerely yours,

Thomas J Clancy
Thomas J. Clancy
Director,
Criminal Investigation Division

Approved:
(Pursuant to Order No. 824-79)
Philip Wilens
Philip Wilens
[illegible]
Office of Enforcement Operations
Date: 10/26/79

(SECTION A - Exhibit #2)



A4 ... Friday, April 16, 1982 THE WASHINGTON POST

Five Indicted in '79 Murder of Federal Judge in Texas

Convicted Drug Dealer Jimmy Chagra, Four Others Are Named in Wood Slaying

By Mary Thornton
Washington Post Staff Writer

Jamiel (Jimmy) Chagra, a convicted drug dealer, and contract killer Charles Harrelson were indicted yesterday for murder and conspiracy in the 1979 assassination of U.S. District Court Judge John H. Wood Jr. in San Antonio. Three other persons were indicted in connection with the slaying.

The indictments were announced here by FBI Director William H. Webster, who said the three-year investigation into the Wood killing was one of the most extensive and expensive in FBI history, costing more than $4.7 million, involving more than 70 FBI agents at times and including 214,000 investigative entries into the FBI computer.

"We started from nothing and built a case up," Webster said, adding that there were no eyewitnesses to the shooting and "virtually no forensic evidence at the scene."

Webster said the massive effort by the FBI and other law enforcement agencies was intended to "send a message" to criminals who believe they can intimidate the criminal justice system.

"It is a strong signal, a definite signal that should be apparent to all who care to listen," he said. He said the large amounts of money changing hands among drug traffickers have "generated a kind of arrogance that allows them to take on institutions.

"His murder was a direct attack on the system of criminal justice and the rule of law that are such integral parts of our American way of life," Webster said.

Wood was gunned down as he walked from his apartment to his car the morning of May 29, 1979.

Wood, nicknamed "Maximum John" because of stiff sentences he handed down against drug dealers, had been scheduled to preside over Jimmy Chagra's trial on charges that he smuggled cocaine from Colombia to the United States from 1976 to 1978.

Yesteray's indictments charge that Jimmy Chagra hired Harrelson for $250,000 to kill Wood.

Chagra's wife, Elizabeth N. Chagra, and his brother, Joseph Chagra, also were charged with conspiracy to murder. All four, as well as Harrelson's wife, Jo Ann Starr Harrelson, were charged with conspiracy to obstruct justice.

"It was a part of the conspiracy that, fearing Judge Wood would impose substantial prison sentences on Jimmy Chagra in the event he was convicted in [the] narcotics case, Joseph Chagra and Elizabeth Chagra counseled and encouraged and agreed with Jimmy Chagra to have and cause Judge Wood to be killed," the indictment said.

Wood was shot once in the head with a high-powered rifle that prosecutors say they believe was purchased by Mrs. Harrelson several days before the killing.

Jimmy Chagra, who lists his occupation as "gambler," is already in the federal penitentiary in Marion, Ill., serving a 30-year sentence for a conviction for conducting a "continuing criminal enterprise" involving cocaine smuggling. Harrelson is in a Huntsville, Tex., prison on drug and weapons convictions. He has been convicted of killing for hire. The other three were arrested early yesterday, before the indictments were released. Bond for Joseph Chagra was set at $2.1 million.

Jimmy and Joseph Chagra also were charged with conspiracy to possess marijuana with intent to distribute and possession of cocaine with intent to distribute.

A separate indictment charges the three Chagras and Mrs. Chagra's father, Leon Nichols, with federal income tax evasion. The indictment said that an attempt had been made to conceal Jimmy Chagra's assets and convert them to cash in order to help him escape from federal prison.

Webster said that, in addition to local law enforcement agencies, the FBI was aided in the investigation by Canada, Mexico and Colombia.

GEORGE HANSEN
SECOND DISTRICT, IDAHO

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Congress of the United States
House of Representatives
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November 13, 1981

(SECTION A - Exhibit #3)

Mr. Roscoe Egger
Commissioner
Internal Revenue Service
1111 Constitution Avenue
Washington, D.C. 20224

Dear Mr. Egger:

For a number of years I have contacted and corresponded with you and your predecessors regarding the brutal and unlawful conduct of the Internal Revenue Service in dealing with taxpayers. I had hoped that the misstatments I kept receiving from your office about the tactics of the IRS were made more out of ignorance than malice, and that somehow, as appointees from outside the system, people like yourself holding the office of Commissioner, were just too protected to know what was really happening.

But time rolls on, and with it comes the full burden of responsibility for the image and operation of your Agency -- and this letter is to advise you that the complaints of the past against the IRS are getting even worse, under your administration, not better -- the obvious motto being "Revenue over fairness."

Despite my certain conviction that the IRS is incapable of understanding the nature and quality of rights guaranteed by the Constitution to the people of the United States and your seeming indifference to those rights which I am sure you do understand, I will once more spell out some of the most recent atrocities committed by your troops in the hope that some of them may not have been authorized by the head office and that you will finally take corrective measures.

1) In a midwest state, your officers gave tax return information on prospective jurors to the U.S. Attorney in order to guarantee the conviction of a defendent in a criminal tax case. Mr. Commissioner, this is prohibited by law. It is a federal felony to divulge tax information to anyone unless authorized by 26 USC 6103. Your agents and the U.S. Attorney violated the law. In so doing, they denied anyone tried by a jury constructed with tainted information even the rawest kind of justice. On the record of the IRS, this is of small concern to you. The

near universal contempt in which your Service is now held by American taxpayers will be considered adulation compared to the public reaction when this latest totalitarian thrust is exposed.

Sir, unless I receive more than the usual lip service from your office to investigate and prosecute everyone in your employ who is involved in jury-tampering by use of tax records, I propose to publish the evidence of the joint misconduct of your agency and the Department of Justice and suggest that the public make its own judgement on the morality and ethics of the situation.

2) As you are undoubtedly fully aware, your agents have used electronic surveillance against target groups on hit lists which in the past you have stoutly denied to have existed. I have finally obtained denial-proof litigation evidence, not only that you are bugging parties on your hate lists, but that you are doing so with the aid and cooperation of the National Security Agency. Given the popular mood against snooping by the government into the lives of private citizens, I demand an explanation which goes beyond your usual stonewalling.

Even more shocking is the growing tenor of sexual misconduct by IRS employees both internally and against the general public. First we hear of agents of your service performing obscene acts in public and escaping punishment on the absurd grounds that their public misconduct does not affect their efficiency in their jobs.

In view of the unsavory reputation of the IRS in its methods against the taxpaying public, it is not unlikely that the Service did not put up much of a fight against these "flashers." I certainly would not be comfortable having a female member of my family close to these people either as co-workers or as taxpaying public forced to be in proximity to them.

No sooner had that matter died down, than we are assailed by the scandal of a highly placed agent of the IRS reported to have sexually abused in a painful way literally thousands of young girls for both profit and his personal graticaton. One wonders how such a filthy-minded person ever had the time to earn his reported $50,000 annual salary in the busy New York City office of the IRS.

In this case, the officer of your Agency reportedly passed around pictures of his perversions to other officers in the office. Over the years, it seems, not one of your trusted agents reported him to higher authority. Or did they? Was he profit-sharing with more highly placed officers of the IRS? What do the periodic evaluations of such an apparent pervert show? His character must look as twisted as a ski trail, and yet he reportedly went undiscovered for years by management.

Such a disgusting scandal of sadism certainly does not do anything to diminish constant complaints by taxpayers that the agents of the IRS seem to enjoy inflicting pain on their hapless victims.

And speaking of inflicting pain, my dissatisfaction with the response made by your office to the serious complaints about the conduct of your employees in Craig, Colorado should be well known to you by now. The issue is not the tax status of the individuals you deal with, the issue is due process of law in handling cases at issue. Since my complaint to you about the outrageous IRS collection techniques in Craig, a Federal Court has found that your employees failed even to abide by your own unfair rules, and has required that the IRS remedy its misconduct in the most coercive of all the acts in Craig, the seizure of people's homes without notice.

I continue to find it difficult to believe that any appointee to the position of Commissioner, even one who has only briefly held the post, could consciously endorse the gross misconduct of IRS employees which is becoming the daily routine of their contact with the public. Since I am intimately aware of the commitment of this Administration to fair-dealing with the people by the government, I provide you with the attached letter recently sent to the Department of Justice. In this way you have ample opportunity to correct the criminal misconduct of your subordinates and thereby vindicate the confidence placed in you by the Administration.

Should you wish more information or to personally discuss matters contained herein, please advise. I will await your response with great interest.

Sincerely,

George Hansen

GEORGE HANSEN
Member of Congress

GVH:at
Enclosure

U.S. Department of Justice

Criminal Division

(SECTION A - Exhibit #4)

Assistant Attorney General

Washington, D.C. 20530

DEC 11 1981

Honorable George Hansen
House of Representatives
Washington, D.C. 20515

Dear Congressman Hansen:

Your letter to Attorney General Smith alleging further misconduct on the part of agents of the Internal Revenue Service (IRS) and possible misconduct by officials of the Department of Justice has been referred to me.

The matters which you sent to us earlier concerning IRS agents have been referred to the Inspector General of the Department of the Treasury, where there is an open and ongoing investigation. I am sure that the office of the Inspector General will be glad to provide you with any appropriate information concerning the progress of those matters.

Mr. James McKenna of your staff has provided us with some materials intended to document your further concerns. He advised that documentation in the case of Grandbouche, et al. v. Adams, et al., which is involved in your first complaint concerning possible improper interception of oral communications is not presently available since it has been mislaid. When the missing affidavits or other documents are located, we will be glad to have an opportunity to review them.

The second matter you raise involves the use by an Assistant United States Attorney of information provided by IRS concerning prospective jurors. As you may be aware, in 26 U.S.C. 6103(h)(5) Congress specifically provided that in the limited class of cases in which the United States is a party in a judicial tax proceeding, the Secretary of the Treasury is to respond to a written inquiry as to whether any prospective juror has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary's response is limited to an affirmative or negative reply. This information may be requested by either the government or the defense in the same proceeding.

In the case of United States v. Barney, which Mr. McKenna called to our attention, Assistant United States Attorney Jeffrey Viken did make a written request to the District Director of Internal Revenue for advice as to whether any of 67 veniremen had been the subject of any audit or other tax investigation. On July 14, 1981, the District Director responded with a list of 22 of the veniremen as to whom there had been an audit or other tax investigation during the years 1976-1981 and a list of 45 as to whom there had been no such action during that period.

To our knowledge no "computer printout" such as that noted in a letter to Mr. McKenna from Mr. Barney's attorney, Mr. John Konenkamp, was involved and no information exceeding that mandated by the statute was provided to the government. While the information received could have been requested by defendant's counsel, it appears that no such request was made. As the order evidences, the district court agreed that the material was not a proper subject of a motion for discovery. While 26 U.S.C. 6103(h)(5) authorizes the disclosure of this information to the defense upon a written request, made to the Department of Treasury, it does not authorize disclosure by the United States Attorney. The appeal filed on behalf of Mr. Barney by his attorney did not raise this issue; a pro se brief filed by the defendant does make allegations that the government acted improperly with regard to the jury. Since this matter is presently before the courts, any further comment at this time would be inappropriate.

On page 3 of your letter you request comments regarding a Federal grand jury subpoena which was apparently issued in furtherance of an investigation of a tax crime. More specifically, you suggest that the use of the grand jury subpoena constituted an abuse of process for various reasons, primarily that the IRS has its own administrative summons authority. For the follwing reasons, there is no indication of impropriety in the matter.

First, there is no limitation upon the types of Federal criminal cases which can be investigated by a Federal grand jury. In fact, indictment by a Federal grand jury, unless waived, is a constitutionally mandated precondition of a Federal felony trial involving tax or nontax crimes. Second, once a determination has been made to seek the imposition of criminal sanctions for a tax offense, it would be an abuse of process for the IRS to issue an administrative summons in the case. (See United States v. LaSalle National Bank, 437 U.S. 298 (1978)). Third, there is no requirement that a Federal grand jury subpoena, issued to an innocent third party such as a bank, state the specific offense that is being investigated; rather, that is the function of the grand jury indictment if one is ultimately returned. Fourth, it is standard procedure to permit subpoenaed parties to surrender the subpoenaed records to agents of the grand jury; in tax cases, agents of the grand jury normally include agents and auditors of the IRS. I note that the instant subpoena allows the bank to provide the documents only to an "authorized representative" of the Internal Revenue Service. On this point, it would seem to be an unnecessary burden upon subpoenaed parties, for example, if a Federal prosecutor were to demand that a bank officer in Pocatello personally deliver subpoenaed bank records to the Federal grand jury which normally sits in Boise. Fifth, even the Right To Financial Privacy Act of 1978, which imposes handling restrictions upon financial records subpoenaed by a grand jury (12 U.S.C. 3420) in addition to those set out in Rules 6 and 17 of the Federal Rules of Criminal Procedure, does not require that bank officers personally deliver subpoenaed records and does not prohibit agents of the grand jury from analyzing such records. Finally, the notice and challenge provisions of the Internal Revenue Code (26 U.S.C. 7609) apply only to IRS administrative summonses and not to Federal grand jury subpoenaes or any other form of legal process; similarly, the notice and challenge provisions of the Right To Financial Privacy Act do not apply to Federal grand jury subpoenaes (12 U.S.C. 3413(i)).

I hope this information is of assistance to you.

Sincerely,

D. Lowell Jensen
Assistant Attorney General
Criminal Division

BY: Philip T. White

Philip T. White
Acting Deputy Assistant Attorney General

[NOTE.—Additional materials submitted by Congressman Hansen are retained in subcommittee files.]

Chairman **RANGEL**. Thank you. Mr. Crane.

Mr. **CRANE**. Thank you, Mr. Chairman.

I want to thank my colleague for his testimony. He and I have from time to time discussed mutual concerns we have over the IRS abuses that he has cited here, and it is, I think, a matter of primary concern to us as protectors, if you will, of citizens' rights in our capacity as Members of Congress to make sure that any agency of Government or department of Government is performing its functions consistent with all of the constitutional safeguards belonging to each and every citizen of this country. Mr. Hansen has done yeoman's service, I think, in conducting a great deal of investigation into the abuses, many of which he has touched upon today.

Mr. Hansen, you speak as though the examines you mention are systemic to the system, and your claim basically, as I understand it, is that they don't represent aberrations but a kind of a planned approach to the collection of taxes. In your mind, what connects these cases and makes them part of an overall approach?

Mr. **HANSEN**. Mr. Crane, I had hoped that these would be aberrations, as I mentioned in my statement, and that this would be something that could be corrected by some kind of administrative authority through the agency. But when you find that in most cases these abuses are not only widespread and rampant in all quarters of the country, but they also appear to be not only condoned but even ordered sanctions by the officials of the Internal Revenue Service at higher levels, then I think that you have this problem of the fact that it is a system that has to be corrected and not just some aberrational problems.

Mr. **CRANE**. One of the arguments I have heard from IRS is that we make the laws and they are simply carrying those laws out. In exercising their responsibilities, I gather you feel that they have certainly exceeded the guidelines the Congress has laid down for performing their duties?

Mr. **HANSEN**. I think the Congress maybe opened the door, where the tabby cat became a full-blown tiger, and maybe did it without knowing exactly how destructive that tiger could be. But I do think that the tiger has been doing some feeding of its own, and in the formulation of regulations they have established procedures that I think are far beyond what the Congress ever intended.

But more than that, I have testimony and statements from former IRS employees that say that even the manuals don't always mean anything, that there are orders given and decisions made that are beyond the manuals in many cases. So I think it is a three-step case.

One is the legislative part, the other part is the regulatory part, and the other part is the aberrational part that goes beyond that which seems to be sanctioned by management.

Mr. **CRANE**. But ultimately all responsibility has to rest here, would you not agree, insofar as if there are excesses by any administrative department or agency or bureau, those excesses, to the extent they are continuing, are the failure or the result, rather, of the failure of Congress to give more explicit guidelines and to insist upon adherence to them?

Mr. **Hansen**. I think that the gentleman from Illinois has stated the case correctly, but I might caution him about what I found in sponsoring correctional legislation, or corrective legislation, and that is that contrary to the courage exhibited by the chairman and other members of the subcommittee who are willing to take this matter on and put it on the table, I have noticed that in light of the fact that there have been previous Members of the Senate and Congress who have had arbitrary difficulties with the Internal Revenue Service, and many other people themselves at some stage have also had difficulties, that I encounter many times Members of Congress themselves who feel that this is something they don't want to take on. They don't want to be on the board with something publicly challenging the Internal Revenue Service. I think when the Congress of the United States has any number of Members who are basically afraid or concerned about challenging the authority of an agency that has been created by this Congress, something had better be done to change that attitude, whether it is real or perceived.

Mr. **Crane**. One of the concerns I have had—and I know you share it, because we have similar legislation that we have introduced through the years—is that simplification of the tax code.

My own personal conviction has been that the tax code is, first of all, unfair today, and that it weighs most heavily on those in middle-income brackets, people who are not really in a position because of their income status to really take advantage of many of the protections—maybe [illegible] the word to use—that have been built into the code to prevent confiscatory levels of taxation in the highest income brackets [illegible] I want to applaud your efforts in behalf of promoting a flat-ra[illegible]

Milton Friedman told me [illegible] years ago that it was his conviction that, with a relatively [illegible] percentage figure, you could generate the same revenue [illegible] we are generating today, even with a doubling of the personal exemption rate and the elimination of all deductions.

Certainly everyone could figure out how to figure out his income taxes, and I asked Mr. Simon back in 1976 what that figure would have to be, and he reported back to me that you could establish a flat-rate tax of 10.5 percent, and produce the same revenue that we were producing under our personal income tax system. And it just struck me that nobody would object to paying 10.5 percent of his income.

I think, further, that we would find a great deal more compliance on the part of those who are seeking to evade taxes either because of a conviction that they are confiscatory or that they are grossly unfair, and I gather you share that sentiment.

Mr. **Hansen**. I certainly do. In fact, I think that we may even be pleasantly surprised how much of the underground we bring back in when people decide it isn't worth the risk of jail to save 14 cents or 10 cents on the dollar as far as what the single-rate tax would be, and also revenue from so many people who are squirreling things into shelters or working in offshore banks or any number of other things such as passing laws that give certain people certain privileges, like Congress itself got crosswise with on the recent tax exemption situation. It seems to me that if we would get rid of all those things that create suspicions and fears in society, everyone would then pretty much settle down as they again come to feel that people are being basically treated fairly.

Mr. CRANE. I want to thank my colleague for his testimony and for the incredible amount of research he has put into this subject.

Mr. HANSEN. Thank you.

Chairman RANGEL. I want to thank you again on behalf of the committee, and make it abundantly clear that no witness that testifies today concerning their feeling of abuse by the Service has waived any of their constitutional legal protections, and that the only reason that consent statements are required is so that this committee does not abuse their rights to privacy.

I also would like to point out that I will be requesting that the IRS review, if they haven't already, some of the statements that have been made in the exhibits that you have offered to the committee specifically, "The IRS Strikes Again," which was published by the Association of Concerned Taxpayers, which indicates several abuses that have been outlined in your insertions to the Congressional Record.

And I do hope, so that it can be made abundantly clear for the record as well as for those in the audience, that in cases that come before this subcommittee, that we will continue to monitor those cases to make certain that abuses do not occur because of the courage of the taxpayers to come to the Congress through this committee or through your office, and it doesn't apply just to the witnesses that have testified today, but to make certain that there is an ongoing oversight, I think all of us as Members of Congress believe that is our obligation.

Mr. HANSEN. Mr. Chairman, may I make one distinction there. I appreciate the clarification that you have given. You have been most fair, and my concern was that if a person wants to sit here or submit information regarding specific IRS practices that he thinks are wrong, but he doesn't necessarily get into his own tax particulars, it seems to me he shouldn't have to be involved in some kind of a waiver of his rights or this type of thing.

If he chooses to get into particulars which would involve information that would be on his return, then I can understand your need for a waiver. So I hope you understand my concern.

Chairman RANGEL. I don't have a problem there, Mr. Hansen. I would believe that in order to get the best possible testimony, that you and I would want, we did not violate that taxpayer's rights to hear exactly what is happening. All of us hear stories about what has happened to neighbors and friends, and I certainly don't want to see someone that has been injured to expose them to further injuries.

But the reason I make my public statement is that even though the taxpayer may have waived the rights to privacy it doesn't mean that they have waived any legal rights. And we will, the staff and the members, will monitor to make certain that harassment does not follow the testimony, and this is not restricted to those that are testifying, but recognizing that any number of people may feel more comfortable in coming to your office or your staff that we will consider that a responsibility.

Mr. HANSEN. I appreciate it very much.

Chairman **Rangel**. We thank you for your contribution, and I will be sharing with you the responses we get from the Service as it relates to the documents that you have submitted to the committee.

Mr. **Hansen**. Thank you very much, Mr. Chairman.

Chairman **Rangel**. Thank you.

We will start hearing from witnesses. The first panel will be Mr. Stuart Greenfield of Miami and Mr. Dwi[illegible] Snyder of Maryland. The lights in front of the witnesses indicate the signals for 5 minutes; the green goes on. Recognizing that this is a short period of time, the Chair, for all witnesses, will be taking the full written statement into the full record, and the witness may proceed without having to read the full statement.

STATEMENT OF STUART GREENFIELD, MIAMI, FLA.

Mr. **Greenfield**. Mr. Chairman, gentlemen of the committee, I am going to testify about an abuse that has taken place over a period of 13 years and continues even to this morning. It is an abuse of myself and my family including my minor children, or who were minors at the time. I am going to read the items that I have documented, and obviously won't have the time to testify to, but I do have affidavits, Freedom of Information documents which were sent to me, some which should not have been sent to me under the law but somebody did, and I did receive them and I will turn them over to the committee.

I know a lot of the items that I am going to accuse the IRS of sound like strong words, but they are meant to sound strong, because they are the truth. Everything I am testifying to here today has previously been in affidavit form.

I have an entire suitcase of documentation on these accusations, they cover illegal search and seizure, tampering with evidence in a Federal court, physical abuse on more than one occasion, kidnaping of self, wife and minor children, being held against our wills, refusing to have us booked or arrested, but being held on a boat out on the waters, piracy, therefore, negligence, the use of firearms to threaten my life in front of my wife and family, failure to follow the IRS Code, coverup and purging of IRS files, and collusion with a particular Tax Court judge affecting the outcome of the hearing, which we have documented through the Justice Department, and obvious gross civil rights violations.

They are strong words, and I have the proof for all of them.

I am going to just refer to two of the items that cover a good part of it. On Memorial Day weekend in 1970, I was aboard my fishing boat in Biscayne Bay going fishing with my wife and children, planning on about a 3-day or 3½-day trip. At 6 a.m. in the morning four men, at dawn, while we were loading bait, jumped aboard. I don't know who they were. I said, "What do you want?" I was rather shocked by them at this time of the morning.

And the first man answered, "We want you, for a start, and then we'll take this boat."

The first thing that went into my mind, that this was a robbery or a holdup of some type. I really didn't know quite how to take it.

And then one of the agents, the revenue agent said, "Well, you have endangered the U.S. Government."

I figured, boy, if I can take on the whole government, that is fantastic. "How have I endangered them?"

He said, "Well, we have a jeopardy assessment right here and we want $640,000 in cash now."

Well, I am a businessman in Miami. I am not in organized crime or involved in organized crime. There is just no reason. I have never had a problem in my life other than common traffic tickets or something like that. I was head of a large company which I founded in Miami. I had 690 employees, and was known well in the community, very active in many other civic functions.

Now, in turn, when these men asked for that, my wife was down below. She said, "Whoever they are, give them the $640 and get them out of here. Let's get fishing."

I said, "Eileen, they said $640,000." I was in shock. I don't think we had seen that much money.

Now, the next thing they told me, to get inside the cabin. Instead of waiting, I was going to try and run, frankly. They both grabbed me and pushed me right through the doors. Two of the men were taller than myself, and I am about 6 feet 3 inches. Once we got inside, the revenue officer pulled out a small piece of paper. I didn't know the difference between a form 17 or a jeopardy assessment or anything else. I just never had these type problems.

He said, "Here, you owe us $640,000. You going to pay up?"

I said, "This is ridiculous. There is no possible way."

Then the man, one of these special agents, opened his slicker and pulled out a gun and said, "I suggest you pay the man."

I said, "This is ridiculous." Now, I didn't really think they were Government agents, because I asked for identification. One man did pull out a wallet. I couldn't read it so I said, "Tell me your names and affiliations and so forth."

And he said, "That is none of your business."

It went from bad to worse. They refused to let us leave the boat. My wife was ordered to go down below into the cabin with the children. I was kept up in the salon. It is a 39-foot boat. And in turn they suddenly started just tearing things apart, tearing cushions apart, opening things, searching, and I thought, well, gee, what could they possibly be looking for? I mean, a doper would be bringing dope in, he wouldn't be going out to the ocean with it. Fishing equipment. They just tore, destroyed the boat and kept us there.

I said, "We are leaving, my wife and children and I are leaving. You can do anything to the boat. We are leaving."

"You are going to be held, and you stay." And they used abusive language, which again I had really never associated with Government agencies. I have talked to FBI people and other people. I just never thought people handled themselves that way, especially a supposedly trained Government agent.

They held us a few hours. I kept inching toward the door. By this time they wanted to take my picture, and one of the men had a camera and wanted me to pose for a picture. I refused. Another man twisted me, threw me down on the table, held my head down with his foot, and they took pictures of me that way. The pictures exist, by the way, and we have located them.

Now, in turn, this went on until I made a breakthrough a double sliding door, backed up to it and then went out and put a little hook, a little S-hook from a rubber fishing gear on the handle so they couldn't get out right away, and I ran to a telephone which was 50 feet away on the dock. I made a telephone call to an associate of mine who lived very near there, told him to call the police, anybody, get me help, get an attorney, and so forth.

He called his next door neighbor, who is a well-known tax attorney, and who I had known, and by this time the agents had gotten off the boat. One stayed with my wife and children, and they tried to knock over the telephone booth I was in. The door was closed and I was trying to protect myself. They dragged me back onto the boat.

By this time again they started and continued to harass me. One told me I was a bum, get out of the country, they don't want to see bums like me here. I thought, gosh, could this be a mistake? I mean, it's like a bad dream, never having been faced with anything like this.

In turn, the city of Miami Police Department showed up, re my call to this associate, and one of these special agents went out on the dock, refused to let us out of the bottom cabin, and talked to them and pretty soon they left. We later found out that he told them they were special agents and this was a raid, and so forth, and there was nothing in their jurisdiction, because they said the boat now was Federal property, that they had seized it, and therefore the police weren't allowed on because it was Federal property and they were keeping them off.

When the lawyer and associate, who formerly was with IRS, and another associate of mine came down to the boat, they jumped aboard. The agent walked out and said, "You are on Federal property, you will have to leave."

"My client is here."

At first they denied it that we were down below. And I let out a good yell, as loud as I could, and then my attorney pushed his way through. They then said that they had a jeopardy assessment. He looked at the form. They said, "That is no jeopardy assessment. That is nothing but a form 17, a 10-day collection notice." I had not known that.

In turn, they denied what they had done, that they had done anything, so my attorney said, "Fine, have Mr. and Mrs. Greenfield and the children leave." I went to leave, and one of the agents doubled me over, punched me in the chest with his elbow, Hampton, a special agent in Miami. And my attorney said, "Fine, book them. If they are under arrest, book them." The children, my wife, and myself.

They said, "No, we are going to hold them here, it is none of your business. Get off."

And they threatened the attorney, that the chief was going to fix him good on another case, and there were various threats between the attorney's agents.

Now, the attorney, "Go ahead and leave again, Stuart." I tried once more to step upon the dock and the same thing happened. My attorney said for the third time, "I said you are going to get me killed, this is getting ridiculous now. You know they are going to hold us."

They continued to hold us for approximately 45 minutes after that, when all of a sudden the telephone booth on the dock that was laying over rang and a special agent named Jaffe ran to the phone and came back and he said, "The boss said to let them go."

This was being from about 6 to 6:10 a.m., approximately that time, until about 11 or 12 o'clock that day. During that not only did they refuse to let me make a telephone call or to call an attorney or call the police or anything like that. They ripped all the radio telephone wires out, so no calls could be made for help, or an SOS, or anything else sent out.

It was a horrid thing. Now, they searched my children, attempted to search me, and then we left with the attorneys. As soon as we left, we called the FBI. It was a holiday weekend. They were shortstaffed, but we knew some police officers, one in the Dade County Public Safety Department with organized crime, and another, a woman police officer with the city of Miami, a sergeant and his wife. They came right over. They were neighbors, and they sat down, each child, myself, and my wife, and took individual statements. We weren't together, so they could put them together and see if they matched up, I guess. And the statements and affidavits were made at that very, very time.

Now, this was just the start of what is still continuing. They seized the stock in my company. I had founded a company and had grown fairly successful during that period. My worth by that time of the stock alone was between $5 and $6 million. I started very small. I have clippings and articles and so forth calling me a Horatio Alger story, that type of thing.

I was successful and I feel it could only have happened in this country that I could have had the success I had. I never thought that it could be taken away as fast as I made it.

Later on we continued the fight. There were continuances for years and years and years to keep me out of Tax Court, because the policy of IRS, admitted policy, is not to allow anybody to go into Tax Court but try and get them into criminal court first, for then you go into Tax Court with dirty hands, and in the case where there is a question of doubt, as the judge did in my case, he said, "We don't believe the respondent, the Government, but I can't take your word either because you come to this court with dirty hands." But obviously that seemed to be the policy, and decided against me.

Further, I could not appeal in Tax Court because in order to appeal, you must pay the alleged amount or put up a like bond. Well, it was $640,000 they accused me of, plus penalties and interest, and so forth, in the millions, that wipes me out of what I thought was my birthright, an appeal. I to this day can't appeal.

Now, we went to Federal court, criminal court—I am sorry—prior to Tax Court we went to criminal court. The first trial, after 17 days, the jury out approximately 17 hours came in and announced a guilty verdict on two counts, one of perjury and one of evasion. They go, obviously, together, I have been told.

Now, in turn we polled the jury after the judge announced the guilty plea and said sentencing would come later. We polled the jury and one of the jurors got up and said, "I absolutely said that the man is not guilty." Here was a poor black, uneducated man that got up and said, "Well, I didn't understand everything going on in there but I know truth from lies." And he said, "I know right from wrong and I know that I said that the man wasn't guilty." There was an immediate mistrial.

At 1 o'clock that morning we got a call from an IRS agent, abusive call, drunk as could be, said what his name was—I have it documented—and said, well, they weren't going to let me get away with that, and so forth; we would go again.

Sure enough, the judge granted a trial again.

Now, in my own research I found out that was jeopardy, double jeopardy, because I have already been found guilty and then found it was not a guilty plea. We went to court again approximately the same number of days, and was found guilty on two counts. The lies and the things done before that jury were horrible. I have documentation showing that we can accuse Greenfield of being a communist sympathizer or an affiliate of organized crime, in either case the facts are unimportant. If the facts are unimportant, then something really terrible happened to our system, because it is the facts I should have been judged on.

Going into the courthouse on the second day of trial, there was a man coming out with an attorney whom I know in Miami named David Rosen, a criminal attorney, and I didn't know the man with him. He was looking at his feet going down and suddenly flashbulbs went off. I didn't know what it was all about except we were walking into court and I thought, gee, they are probably taking pictures of that guy because he is probably important, I am not.

And the next day the IRS comes in with a blowup of a picture and shows it to the jury. This is Mr. Greenfield and his friends. The other man turned out to be a well-known member of organized crime who had just finished a trial, a man named Meyer Lansky, whom I have since read very thoroughly about, coming out of the court, not talking to me.

To this day I don't know him. I would recognize him but I don't know him, and these were the kinds of innuendoes.

My home was robbed during my father's funeral, while we were at the cemetery. In turn, some of those very same documents showed up during the trial. When I turned around to my attorney and said, "Jack, my God, these are those papers, these are notes to myself, little personal notes."

I am a writer and I always make little notes of things to remember or work on.

And he said, "Well, how are we going to prove it?"

I said, "We know they were taken during the robbery." The only thing removed was a transfer file of my paper, my notes, old bills, things like that.

We asked the prosecutor about it and he said, "I found it in the IRS files when I was given this case for prosecution."

Also during this case the regional counsel refused to prosecute the case. He since has been transferred. Anybody who was against the case. I have freedom of information documents where a man named Fred Ugast in the Justice Department, another man named Folsom, head of the Criminal Division, didn't want to move on this case but the harassment continued. The only way I could fight back was speaking out. The more I spoke out, the more trouble I got into. In other words, I was threatened with perjury.

Finally I was sentenced 1 year after the second trial and given a 1-year sentence to serve 4 months. At this time I was quite ill. It is only very recently that I can walk again. I was totally crippled and went through eight or nine surgeries. However, one night in the South Miami Hospital, the day after an operation, about midnight, just after the change in shift, two men came in—and I was completely groggy, I mean still in a mess—and started to question me. And I still didn't know what was on. A nurse came in and wanted to know who they were because one man had a stethoscope in his pocket. She thought they were just doctors, she didn't know.

The two men ran down the steps. Finally, security was waiting at the bottom of the steps and the only identification they had were IRS agents. I mean, I know these stories sound horrible, and I guess a lot of people, it appears, might have personally become mentally unbalanced or something like this. The IRS tried to prevent me from going to trial by having me committed to Springfield on the basis that I wasn't mentally balanced. Their own psychiatrist testified on my behalf and not on the Government's, five psychiatrists, that I was in amazingly good shape for what they were doing to me.

They tried things, such as my wife would go to the store and suddenly she would be walking through a grocery store, cans would fall down, displays would fall down. By the third week she thought she was cracked up. She wouldn't leave the home.

In turn, we found out through freedom of information these were all planned things. These are documented, gentlemen, but from that time to now I have one more case with them.

In 1969 a civil case—I won't testify to the facts of that case since it is in the courts, but it was filed, again as a harassment technique, after the statute of limitations ran out in 1977. This is for 1969 taxes. There have been 19 continuances. The case has been heard in full two times at this stage, and I no longer can afford attorneys. I am representing myself. It has been heard by three judges, and now it has just come up today and, surprisingly enough, when I was notified to be here on the 26th—this could be a coincidence but it would be rather amazing—I received a marshal's notice and a special delivery from a fourth Federal judge that he was going to hear the case and I should be prepared to spend this whole week there, even though it is only a 2-hour case at most of court time, starting this morning.

I made a motion for a continuance. Since the Government has had 19 continuances, I figured I was due one to be here. I received no answer, and Friday the judge's secretary in West Palm Beach advised me the judge was going to hold me in contempt of court for not showing up here this morning. I made the decision here on my own to be here and testify because if I don't speak out, people like George Hansen don't speak out, pretty soon there is going to be nobody to speak out for anybody.

Chairman RANGEL. Mr. Greenfield, because of the extraordinary nature of the testimony that you submitted this morning, obviously I ignored the 5-minute rule.

Mr. Crane.

Mr. Crane. I don't know how to respond to the story you have just told, to be honest with you, Mr. Greenfield. I don't have the particulars of the case, but regardless of whether you were guilty of failing to pay taxes, the story that you have unfolded before the committee does not in any way conform to any of the laws or the principles or the ideals that we believe in, and even if you were a Communist or even if you were a syndicate personality, and I am in no position to judge that either, for all of that the laws are designed to protect one and all equally, and this kind of experience that you have related to the committee is the kind of horror story that one assumes routinely occurs, say, in the Soviet Union or happened in Nazi Germany, but never in these United States.

I personally want to commend you for the courage in coming here to testify before the committee, and I don't know what good services we can offer in the case of the potential contempt citation by that judge for coming here instead of being there, but I simply want to offer any help I can be to prevent you from being accused of having been in contempt for coming to testify before this committee this morning.

Thank you for being here.

Mr. Greenfield. Thank you very much.

Chairman Rangel. Mr. Greenfield, you know that this committee will be receiving some type of response from the IRS, and I had no idea as to which direction your testimony was going. What year did this boat incident occur?

Mr. Greenfield. That started in 1970.

Chairman Rangel. Nineteen what?

Mr. Greenfield. 1970, June of 1970.

Chairman Rangel. This is when you and your family were kidnaped?

Mr. Greenfield. That was the start, yes. Prior to that——

Chairman Rangel. Where was this, in Florida?

Mr. Greenfield. That was in the State of Florida, in the city of Miami.

Chairman Rangel. And your boat was in dock?

Mr. Greenfield. Yes.

Chairman Rangel. And these people jumped on your boat?

Mr. Greenfield. That is right.

Chairman Rangel. Before you took off?

Mr. Greenfield. Marina at Dinner Key which is the city marina in the city of Miami, and they accused——

Chairman Rangel. These things were testified at your subsequent trials?

Mr. Greenfield. Yes, they are a matter of record.

Chairman Rangel. Do you know whether there was any action taken against these agents?

Mr. Greenfield. None whatsoever. However, those very same agents' names, according to this, keeps showing up in other atrocity cases, interestingly enough.

Chairman Rangel. And your lawyers, in addition to your litigation, have made the case to the IRS?

Mr. Greenfield. Absolutely.

Chairman Rangel. So that this committee won't have any response from the IRS that they were unfamiliar with this case?

Mr. GREENFIELD. This current Commissioner may not have knowledge of it, but so many papers were destroyed or disappeared, and I have gotten them in many, many ways, there are obviously people in our Government, thank God, who still believe in truth and honor and the law, and I received copies through people that have heard of the case, that have proven. Even the photographs from a man who did the developing for the agents, when we went to tax court trying to get the copies of these photographs and so forth, they claimed they didn't have them.

Suddenly somebody called us and we got photographs. My daughter was sitting in another court, and she saw a special agent with photographer envelope in his pocket, she came up and told the lawyer, the lawyer told the judge maybe those are the pictures that he just got off the stand and denied in front of Judge Qualey and they turned out to be again some of the pictures of these incidents.

Chairman RANGEL. Outside of the public record in the litigation, has your case been publicized in any publication that we can review?

Mr. GREENFIELD. I think Tax Review magazine referred to it, not in name, but referring to the attorney and some of his cases as one of the very bad, I think they said the worse atrocity case of an American citizen in many years.

Chairman RANGEL. Why don't we do this. Naturally we are concerned about this case and we are equally concerned about protecting you against further harassments or even testifying to things that may get you in further difficulty.

Would you be kind enough to have your own——

Mr. GREENFIELD. I represent myself at this time. I spent $191,000 in attorneys' fees, expenses, et cetera over the years to the point where at this time I am incapable of paying any more. I do have documentation by an outside group who spent thousands of hours and offered a $10,000 reward, a church, in my behalf.

I am not a member of that church but they investigated the thing. I have all their files.

Chairman RANGEL. Why don't you then just share the Freedom of Information materials that you have with staff so that we would be certain that we are not going beyond the public record. We want to be of assistance. You can be assured that you will be receiving a response from IRS, since you have agreed to allow them to respond to your case.

We will contact you to see whether or not that response makes any sense, but we will be restricted and guided by your rights, legal rights as well as your rights of privacy in responding to you.

If there is difficulty in doing this, we will have to contact you directly, since you don't have counsel. It could very well be, though, and I suggest to Mr. Crane that we might contact the Florida Bar Association to at least have them appoint counsel of making certain that your legal rights are protected. We appreciate the fact——

Mr. GREENFIELD. I have come here and I have got everything with me. I failed to mention, also, that all our files were stolen from the Federal Court, all the internal files following the first trial.

We went to a second trial with no paperwork whatsoever other than reference or records.

Chairman RANGEL. Mr. Crane.

Mr. CRANE. I have no further questions, Mr. Chairman.

Chairman RANGEL. Thank you.

You will be hearing from the committee and thank you for taking time out to share this tragic experience with us.

Mr. GREENFIELD. Thank you, Mr. Rangel.

[The following was submitted for the record:]

[NOTE.—Attached documents referred to in preceding letters are retained in the subcommittee files.]

April 26, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

Dear Mr. Chairman:

I am aware that I am under no obligation to discuss my dealings with the Internal Revenue Service, and that I am voluntarily testifying before the Committee on Ways and Means, Subcommittee on Oversight, in a public hearing. I am also aware that my statement and any information disclosed by me will be placed in the Committee hearing record, a published public document, and could be used in a court of law. Further, I am voluntarily disclosing such information included in my testimony to the Committee for the purpose of this hearing and for inclusion in the hearing record.

I am aware that without this authorization my returns, return information, and taxpayer return information, as defined in Section 6103(b) of the Internal Revenue Code, are confidential and are protected by law under the Internal Revenue Code.

I authorize the Internal Revenue Service to disclose my returns, return information and taxpayer return information, as those terms are defined in Section 6103(b) of the Internal Revenue Code for all tax years to any Member of the Committee on Ways and Means, Subcommittee on Oversight, or to any member of the Subcommittee's staff or counsel, for use in preparation for the Subcommittee's April 26, 1982 public hearing on the Internal Revenue Service's administration of the tax laws, for use during the Subcommittee's public hearing, or use in preparation or inclusion in any report or public document prepared by the Subcommittee which pertains to the public hearing.

I also authorize the Members, staff and counsel of the Subcommittee, and the Internal Revenue Service, to disclose this information either during the public hearings or after the public hearings to any person and in any manner that the Members, staff and counsel of the Subcommittee, or the Internal Revenue Service, deem necessary to clarify the hearing record.

Taxpayer Name [illegible] Greenfield
Social Security Number [illegible]
Address [illegible] St. [illegible] Fl. 33143
Signature
Date [illegible]

8040 S.W. 54 Ct.,
Miami Florida 33143
April 20th,1982

Congressman George Hansen
United States Congress
Longworth Office Bldg,
Washington D C 20548

Dear Congressman Hansen;

Following my conversations with Mr. Jim McKena of your office I am enclosing documentation of the abusive,unAmerican Tactics that have been employed by The Internal Revenue Service.

I have agreed to be a wittness at the Ways and Means hearing on April 26th.

The enclosed material will tell you the story of a typical,law abiding American family who's very lives have been threatened,their civil rights grossly violated and have been harrassed for thirteen years with no end in sight. It is a horror story of a U.S. Goverment Agency that has become so abusive in it's power that is has now become dangerous legaly as well as politicaly.

There is no worse enemy to our Country than those from within. I equate the denial of our citizens constitutional rights as akin to the dangers of creeping communism from within.

The following acts have been documented in the case of IRS vs Stuart & Eileen Greenfield

Illegal search and seizure
Tampering with evidence in Federal Court
physical abuse
Kidnapping of self,wife and minor children
piracy on the water
negligence
Use of firearms to threaten taxpayer
Interference in a state Court unrelated case
Failure to follow IRS Code
Cover up and purging IRS Files
colusion with a tax court Judge affecting outcome
Gross civil rights violation

I know these sound like strong words. They are meant to. They are true and well documented.

In looking into the case I would suggest you first read the afadavit #1 covering the illegal raid and seizure on my fishing boat.

Another item of interest would be the siezure of stock I owned in a Florida Real Estate and Land Sales Company. The value of the stock was about $200,000. This was an investment,Iwas not engaged in the company in anyway.After the IRS seized the stock they did not sell it and apply the proceeds against the aleged tax. Instead they continued to hold same.On numerous occassions my attorney and self inquired of IRS as to the status of this stock.Three years later they claimed they lost the certificates,yet my attorney and self saw same when we were in the Reqional Counsels office in Miami..Later when we queried them again theyclaimed they never seized the stock. Now going on twelve years later I received a telephone call from an IRS agent who requested an appointment with me so he couldreturn the certificates,since they didn"t need them anymore.

The stock is now worthless since the company went into Bankruptcy about 4 years ago.That's why they wish to return them to me. Twelve years after seizure.......I refuse to accept the return and hold the IRS responsible for the value of same at time of seizure. Gross negligence is involved, since they acted contrary to the IRS Code..

The harrassment continues,even as late as christmas week they were threatening to sell my home of twenty five years on the block.

Following their vindictive policy and threats to"keep me broke" they filed another civil suit for taxes for the year of 1969......This was filed in 1977 after the statute of limitations had expired. There have been nineteen continuances,noneby me.The case was heard twice befor Judge Joe Eaton who then failed to reach a decision .He heard case in 1978.Reserved decision until 1979. Then stepped down. It was heard again only two weeks ago prox befor Judge Kraft,who admonished IRS not to throw me out of my home. He then refused to decide case and stepped out of same. Now another Judge is on the case. This makes four Judges, 13 years from filing return,19 continuances.......

The IRS through theirUn American actions have destroyed my productive life,my health as well as my marriage and children.They have done and are continuing to do as much as possible to destroy me and prevent me from once again becoming a useful productive,taxpayer again.

I have agreed to appear as a wittness befor the "Ways and Means Comittee to testify in public on Monday April 26th1982.

For If I fail To Speak Out,

And you Fail To Speak Out,

Soon there will be no one left

to speak out for anybody.

Yours truly,

Stuart B. Greenfield

8040 SW 54 Ct.,
Miami Fl. 33143
April 20th,1982

Mr. Jim McKenna,
Congressman George Hansen's office
House Of Reresentatives
Longworth Office Bldg.
Washington D C 20548

Dear Jim;

Enclosed is the material as to my case with IRS and all supporting data. The cover Letter is addressed to Congressman Hansen.I would appreciate your making copies of all enclosed and give them to Mr. Lowe from the Ways and Means comittee He will need them as fast as possible so he can make copies and distribute same for the monday hearing.....I will arrive in Washington Sunday night and be at your office just prior to the hearing which starts at 10 A.M.

Should you or the Congressman have any questions prior you can reach me here at home over the weekend. My telephone is 305 667 8164.

If I can be of any further assistance please advise .

Yours truly,

Stuart E. Greenfield

P.S. Pls notify me when material received.

Copy for
Ways-Means
Committee [illegible]
per request

GENERAL AFFIDAVIT

State of Florida)
)
County of Dade)

I Stuart B. Greenfield, of 8040 S.W. 54 Court, Miami, Florida, being duly sworn do hereby depose and state:

That on May 30, 1970, at approximately 6:00 AM, at the Dinner Key Yacht basin in the City of Miami, my wife Eileen and our two children, Tracy and Pamela, were on our boat preparing for a holiday cruise to the Bahamas in a cavalcade of about 40 other boats on a visit sponsored by the Bahamian government.

I had been loading bait into a freezer and then walked out onto the deck. Just as I was walking out there were 4 men standing on the dock. I said in a very friendly fashion "Hello, did you want the loading cart?"
One of the men said, "No, we'll take you for a starter."

Suddenly the 4 men jumped down into the boat. The sound was so loud that my daughter Pam yelled up from below deck, "What's that?" At this time of the morning the tide is at low tide which is why they had to jump down into the boat.

One of the men said to me "Get inside."
I said, "Wait a minute, who are you?" One of them said "We're from the government." I then asked to see their identification. One of the men pulled out what appeared to be identification and heldit out very briefly. Since it was still quite dark outside I was not able to see what the identification said, so I said "No, wait a minute...I want to see it". This same man then yelled, "Like this?" and pushed the identification up against my face so that it was smashed against my nose. I then said, "Well, I still don't know who you are and I don't know what that is, and that doesn't prove a thing to me. Now What do you want? Make it fast and then get out of here before I call the police." One of them said "You're not calling anybody buddy, now get inside."

I later found out that the men who came aboard the boat that morning were Treasury Agents Hampton, McMillan, Jaffe and O'Dea.

Agent Jaffe was wearing an orange slicker. He pulled back the slicker and showed me the gun he had tucked inside his belt. He then said, "You want to get inside now?"

I went inside the cabin and one of the agents, a short heavy set one said to me, "You've endangered the United States Government." I said, "What? I've endangered the US Government??" He said,"Yeah, you owe us $640,000.00. You want to give it to us now?"

At this point in time I thought we were either being held up, kidnapped or something awful. I thought at the time that this was not the way government agents act, so it can't possibly be government agents.

I then said to Jaffe, "Let me see your papers." He replied, "None of your business." I said, "Well, if this is a seizure of any kind you better give me some papers. Otherwise get off this boat. It is my property" His reply was "You're on government property now. This boat is government property."

One of the agents then went outside and came back with a seizure notice which had 4 pieces of wire attached to it. The agent proceded to place the notice on the wheel of the boat. Then, agent Hamptom said to me "stand next to it." I said, "I will not.You're not going to take my picture." Hampton then grabbed me by the head, twisted my arm and tried to force me over to the wheel to have my picture taken. He then threw me down and threw my head on a low cocktail table. I was down on my knees. He said "You'll do anything I say when I get through with you.

At this point in time my wife began to yell, "Leave my husband alone". One of the childrun was crying and the other one yelled "Leave my daddy alone."

Just as I got up two of the agents grabbed me and pulled me over to the seizure notice. They grabbed me by the hair and held my head down next to the siezure notice while they took my picture.

The agents continued to take pictures and hold me at gun point. I was struck by agent Hampton and Jaffe 8 or 10 times. The agents even asked my children where I was hiding all my money. This went on for a couple of hours.

Finally, I was able to back out of the door, get up on the dock and run to the telphone booth which was at the end of the dock. Either 1 or 2 of the agents ran after me.

I got to the telephone booth and called Al Baitcher, not knowing he was the IRS informant. I told him what was happening and instructed him to call the police and to call Barney Fleisher an attorney who lived nearby.

I told him 2 or 3 times to call the police and have them come down. Of course, Baitcher never called the police.

Barney Fleisher, now deceased, was working with David Rosen a Miami criminal attorney. Fleisher was the former Regional Counsel of the Southeast region for the IRS.

During my conversation with Baitcher the IRS agents attempted to knock over the telphone booth I was in.

A few minutes later I was back on the boat. While I was gone the agents had begun to search the boat. The agents did not have a search warrant. They literally ripped the boat apart during their search. They threw ash trays and ripped open furniture cushions.

One of the agents took my daughter Pam's little fur pocketbook and ripped it open. This agent was Hampton. After he ripped it open he threw it on the floor and said "Pick it up kid ! "I told Pam to leave it where it was and to come over by me. As she was walking over to me Hampton grabbed her by the hair. When he grabbed her by the hair I saw red and went for Agent Hampton. Two agents grabbed me from behind.

Al Baitcher, David Rosen and Barney Fleisher arrived at the boat. Just as they were getting into the boat the two agents that had ahold of me let me go so fast that I almost fell over.

Fleisher looked at the agents and recognized each one of them. He knew all of them by their first names. He asked them what was going on. One of the agents said "It's a jeopardy assessment." Fleisher then asked them if they had the paper work on it, to which one of the agents replied in the negative. Fleisher then said, "What do you mean you have no paper work?" "You've got no jeopardy then."

Fleisher then told me and my wife to go on home.

As I started to leave the boat agent Hampton caught me in the stomach with his elbow and knocked the breath out of me. He did this 2 or 3 times.

I then told Fleisher and Rosen that one of the agents had a gun and had threatened me at gun point. The agents denied having any guns. When the opportunity arose I grabbed agent Jaffe's slicker and pulled it back so that both attorneys could see the gun and see that he had lied. Both of them saw the gun.

The telphone on the dock started to ring and agent Jaffe ran to answer the phone. Upon his return he announced, "The Chief said to let them go."

The agents let us go and allowed us to take about 1/2 a pillow case full of personal belongings.

While the argument was going on back and forth as to whether or not we could leave I was terrified wondering how I was going to feed my family. The agents said they had seized everything and that we had better find another place to stay that night as my home had been seized as well.

Page 3 affidavit Stuart Greenfield

I took the ring out of my pocket and swallowed it setting and all.
The ring was later retreived.

From May 30, 1970 to the present day my life has bben made a living hell
by corrupt and dishonest IRS and Justice Department officials.
My family has been harrassed physically and mentally and have lived in mortal
fear. My marriage of 25 years was destroyed by the pressure brought to bear
by the US government.
I have arranged for my children to live in another city to try and prevent them
from being further harrassed.
Both of my children have been psychologically harmed and will carry the scar
for the rest of their lives.
What can they possibly think of a government that acts in such a lawless manner?

I declare under penalty of perjury that the above statements are true and
correct to the best of my knowledge.

Sworn to and subscribed before me this----9----day of--September--1978

Notary Public

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DEC. 11 1981
BONDED THRU GENERAL INS. UNDERWRITERS

4/18/75

Re: IRS [illegible]

AFFIDAVIT

My name is Stuart B. Greenfield. I presently reside at 8040 SW 54 Ct., Miami, Florida. The following statement is true and correct to the best of my knowledge.

About five or six weeks ago the Miami News and the Miami Herald ran numerous stories about a special illicit group of undercover spies that worked indirectly for the Internal Revenue Service. Their activities were to give information to the IRS about specific local citizens and to do other acts of a criminal nature which the IRS agents were not allowed to do themselves. Certain agents came forth and admitted their roles in these illegal and imoral activities.

Two of the names of spies that appeared were well known to me. One man named Nelson Vega(also alias such as Varona,Sanchez etc.) worked for me.Even when he was no longer a full time employee he continued to do free lance repair work for my company.The second name known to me is Roberto Novoa. The second man was introduced to me by Nelson., Novoa spent much time hanging around our trailer office usually waiting for Nelson. Both of these men were Cuban. During various discussions they led me to believe they were doing some work for the CIA.On at least two occasions Nelson sat in on meetings between my attorney John Kennedy Lynch, and myself, wherein we were planning the stragedy for my defense in a criminal tax case.It was my belief then that these two men were completly trustworthy.I at many times discussed very openly my tax case with these two men... One day they brought a steel filing cabinet to my warehouse. I asked what it was and Roberto said it was some old business papers of his ,it contained some items he needed for tax purposes. He said he wanted to leave it at the warehouse for safekeeping. I explained that we were broken into twice in the last six weeks and this would be the worst place to keep something valuable. Therefor the cabinet was removed in a few days. It was taken out on a little white foregn pick up truck.I never thought about this incident until the papers reported the theft of aMr. Estrellas file cabinet from his campagn headquarters. He was at the time a candidate for Mayor of the city of Miami.The IRS denied any association with the theft at first, but now admit they have the files.According to the paper Vega admits having stolen the file for the IRS..During this same period Nelson advised that he had become very close to Maurice Ferre. Presently Mayor of Miami.He told me he was doing secret undercover work for Ferre and certain government agency. One of the items he did tell me was that a certain goverment agency was giving them money to organize a group of roughnecks(Cuban) to break up campagn meetings ,tear down opponents signs and generally disrupt their campagns.. He said they were really doing all this for patriotic reasons since this goverment agency had reason to believe certain of these candidates were dangerous to our country. He never mentioned the IRS by name at that time and I continued to assume it must be the CIA..I then had an accident and left the business and remained in the hospital for some time.

IRS

Use of

Hired

Thieves

page 2_Afadavit of Stuart Greenfield

Nelson visited me at the hospital twice. In each visit he expressed a morbid interest in my tax problems. Again I discussed my case openly with him. ....I had no further contact except by some coincidence I met Nelson in the lobby of the Federal Court-house on the last day of my first trial befor Judge [illegible]. We spoke for a few minutes and he told me he was now doing big things and he had excellent political connections and would soon have no money worries.....I then told him since he was doing so well he should pick up the two bounced checks he gave me..I neither saw or heard from him again until on the last day of my last trial, I again met him in the same place. He was already well aware that I was found guily, only minutes after the verdict.Now after reading the papers all of these supposedly unrelated incidents seem to fall into place..It is now my belief that these certain individuals were used to spy on me, my family and my attorney to gain inside privledged information for the IRS. Furthermore my home was robbed on the day of my fathers funeral. The only items taken were files of personal business and financial papers...This was reported at the time. One of the pieces of paper in my own handwriting that was taken showed up in the possesion of one of the IRS attorney.I immediatley recognized the paper and told the attorney it was stolen. He replied that my attorney had left it on a desk in the IRS offices and he was just returning it. My own attorney advised that we could not prove how it came into their possession there for we could not make an issue of it.........Again my honest belief is that all these matters are related and have adversley affected my defense, in a case where my good name has been ruined, I have been made destitute in trying to protect myself, my family have been destroyed. I have been made a felon and my most precious heritage is at stake. My Freedom.......

All of this done by a few individuals who have sought to deny me my birthright under our constitution. Let those who seek to destroy our"Bill of Rights" be judged, and if done it will be obvious that the wrong man was tried in this case.

Stuart B. Greenfield
May 18,1975

Acknowledged before me 5/20/75

My commission expires

NOTARY PUBLIC STATE OF [illegible] AT LARGE
MY COMMISSION [illegible]
BOND[illegible]

GENERAL AFFIDAVIT

State of Florida)
)
County of Dade)

I, Stuart Greenfield, of 8040 SW 54 Court, Miami, Florida, being duly sworn do hereby depose and state:

In late July 1969 I was contacted by an IRS Special Agent who identified himself as Samuel Carlton and another agent Lester Stepner.
I met with Mr. Carlton and Mr. Stepner. in the office of my accountant, Robert Strang, on July 28, 1969. At this meeting Carlton read me my rights under the Miranda decision. Mr. Carlton told me the duties of a Special Agent were to investigate the possibility of criminal violations of the Internal Revenue Service Code.

Mr. Carlton later told me that he was investigating a former employee of our company, Mr. Arthur Burrel and he asked me for my cooperation. He assured me that he was not there to investigate me or my taxes.

I cooperated fully with Agent Carlton. I provided him with office space at the Meter Maid Office as well as provided him with all books, records and stock transfer journals pertaining to our company.
I was more than happy to cooperate with agent Carlton due to the fact that Arthur Burrel had been involved in certain thefts and stock manipulations while he was employed by Meter Maid. As a result Burrel had been fired from the company.

I had planned to bring criminal charges against Mr. Burrel and in fact discussed this at some length at a Board of Directors meeting. When agent Carlton discovered I planned to prosecute Burrel he asked me not to proceed with it as sucj prosecution would interfere with the government's case against Burrel.

I became suspicious of Carlton's real intentions when I found him going through numerous company papers and records thathe had not been authorized to see and his asking questions of employees pertaining to me.

I became fully cognizant of the fact that Carlton was in fact investigating me when I found out from a personal friend that Carlton had made certain accusations against me which were utterly and completely false. The friend in reference is Mike Carter. At the time of the incident she was a police officer for the Miami Police Department. According to Mrs. Carter Samuel Carlton had told her that he was not only investigating me for tax purposes, but that I was also being investigated for a murder I had allegedly committed. The murder, according to agent Carlton, that I was supposed to have committed was one Richard Godfrey. I had known Richard Godfrey in previous years and when I learned of the accusation Carlton made I began to do extensive research to determine the whereabouts of Richard Godfrey.
I discovered that Richard Godfrey was alive and well and was in the Raiford State Penitentiary where he had been sentenced to do 10 years.

Throughout the course of Carlton's investigation of me I loaned him tape recordings of telephone conversations which disproved certain allegations he had made against me. When the tapes were returned to me I had no reason to immediately play them. Sometime later I did replay them and discovered that one of the tapes which contained very important evidence was completely erased. Later, in Mr. Carlton's final report regarding his investigation of Stuart Greenfield he completely lies about the incident that was contained in the erased tape.

Mr. Carlton committed perjury when he was under oath before Federal Judge, Joe Eaton in the U.S. District Court in the first criminal case of IRS vs Stuart Greenfield. He was asked by defense counsel: "If there was an informer, did he testify in this trial?"
Carlton responded: "If there was an informer, he did not testify in this trial."
The criminal trial in reference was declared to be a mistrial due to the following:

page 2 Affidavit Stuart Greenfield

At the end of the trial the Jury Foreman announced that the defendant was found guilty. Defense Attorney, Jack Lynch, polled the Jury and when the 12th juror was asked if he had found Stuart Greenfield to be guilty the juror said,"No, I didn't say he was guilty and I told the foreman that." He went on to say that he had been pressured into finding Stuart Greenfield guilty by the Jury Foreman because the Foreman had a party he had to go to at the country club.
The final outcome was a hung jury, therefore mistrial was declared.

The second re-trial was held almost immediately thereafter ie; in August of 1973 and Mr. Carlton perjured himself a second time.
Mr. Carlton was asked by government counsel: "Mr. Carlton, I believe Mr. Lynch asked you earlier something about an informant, if there was an informer and I am not saying there was or was not, but if there was did he testify in this case,sir?"
Carlton responded: "If there was an informer neither he nor she have ever testified in this case."

I have since received documentation from the United States Justice Department under the Freedom of Information Act which conclusively proves the fact of Carlton's perjury in both of the abovementioned trials.
To wit; Letter of November 10, 1971 from Willard C. McBride, Justice Department prosecutor which is a Memorandum for Acting Assistant Attorney General Ugast, which states:
"That soon thereafter, Greenfield's attorney, Barney Fleisher and a man by the name of Al Baitcher (who, in fact, was the informer in the matter)."
This same letter states:
"Although not indicated in the report, the special agent tells me that Al Baitcher was the person who informed the Internal Revenue Service of Greenfield's intention to leave the country, which precipitated the jeopardy assessment."

Al Baitcher, the IRS informer, did indeed testify in the first above mentioned trial which was well known by Samuel Carlton and the prosecuting attorney.

Additionally, it has been reported by a reliable source that one of the special agents working with Carlton on this matter is a nephew of the informer, Al Baitcher.

Samuel Carlton prepared a final report pursuant to his investigation of myself.
I have every reason to believe that the so called copy of Samuel Carlton's final report which I received from the government under the FOI Act is not a true copy of said agent's report.
We were supposed to have received this report as part of our Jencks motion prior to the criminal trial, however the government prosecutor refused to give us a copy.
However, one day during a lunch break from the trial, one of the assistant attorneys gave the report to my attorney in error. My attorney, myself and several others read this report during the lunch break.
In this report Carlton stated that I was s MAFIA character and that I was an associate of "Trigger Mike Cupola", who was a known Mafia figure in Boston Mass. and had died 10 years peeviously.
The only way Samuel Carlton could have arrived at such a conclusion would have been through illegal wire tapping of my telephone. The reason being, one of my close friends as mentioned previously, was a police woman by the name of Mike Carter. I used to call Mike Carter "Trigger Mike" since she was a police woman and carried a gun. I called her on the telephone several times throughout Carlton's investigation of me at which times I always asked for "Trigger Mike".
Carlton could only have gained this erroneous conclusion through the use of telephone surveillance.

It is to be noted here that Carlton's verbal accusations about me and my alleged affairs such as the above is the reason my tax case was designated a Strike Force (Organized Crime) matter.

The report also contained information on how one time I had nearly caught one of their men in my home. The report said to the best of my knowledge, "One of our men was just leaving the house after doing some special assignment work and there would have certainly been an explosion if he were caught."

We returned from our lunch break and immediately showed the report to Judge Eaton. We attempted to point out to Judge Eaton the fallacy of the accusations Carlton had made against me.
Judge Eaton read the report "in camera" and after an extended period of time emerged from his chambers.
Off the record Judge Eaton said that the report would not be used by either the defendant or the government throughout the proceedings, however Judge Eaton allowed government counsel to take the original report, replace it with a copy with the assurance that it would be sealed.
On the record Judge Eaton said that the report contained opinions of government counsel, inner workings of IRS etc. and that it was to be sealed by the court.

Interestingly enough, when the trial was concluded and we asked for a copy of the report for use it tax court it could not be found. The report had been "lost".

When I received a copy of this report under the FOI Act I received something entirely different than I had previously inadvertantly had the opportunity to read. The original report was much thicker and was on different sized paper. The accusations which Carlton made against me in the other report were not included in the copy I received.

I can further be shown that Samuel Carlton used Al Baitcher, the IRS informer, to say anything he wanted him to say. To wit; FOI document previously referred to of November 10, 1971 contains a handwritten note on the bottom signed by F.G. Folsom, Chief Criminal Section Justice Department Tax Division which states: " We also have an informant who can be turned with the "Judas" brush."

Samuel Carlton pursuaded attorney Merle Litman to sign a letter that he had composed pertaining to my attorney fees. To quote Mr. Carlton's supplemental reported dated May 5, 1971, "I composed the above quotations in Litman's letter before he wrote the letter for me. I prepared a draft of what I wanted.."This is the letter that Carlton had Litman sign. Litman later told me that he had little choice in the matter.

Carlton in his final report states that Greenfield was "in good health" at the time he signed his 68 tax return, when in fact he well knew that Greenfield was seriously ill, and under heavy medication in Baptist Hospital. Carlton had gone to Baptist Hospital and read all of the medical notes, thus he knew for a fact that I was extremely ill, yet he once again lied when he really knew the truth.

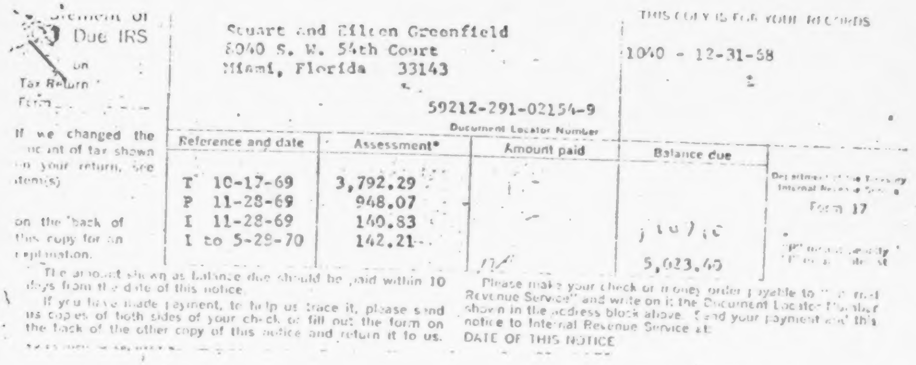
Carlton has acted in a very suspicious manner with regard to his honesty and financial dealings as relates to the law and the policy of the IRS.

With the full knowledge of the laws of libel I make the charge in this sworn affidavit that Samuel Carlton, IRS Special Agent, is a liar.

Sworn to and subscribed before me this---9---day of---Sept---1978

Notary Public

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DEC 11 1981
BONDED THRU GENERAL INS UNDERWRITERS



Statement of Tax Due IRS on Tax Return Form

Stuart and Eileen Greenfield
8040 S. W. 54th Court
Miami, Florida 33143

THIS COPY IS FOR YOUR RECORDS

1040 - 12-31-68

59212-291-02154-9
Document Locator Number

If we changed the amount of tax shown on your return, see item(s) on the back of this copy for an explanation.

Reference and date	Assessment*	Amount paid	Balance due
T 10-17-69	3,792.29		
P 11-28-69	948.07		
I 11-28-69	140.83		
I to 5-29-70	142.21		5,023.40

Department of the Treasury Internal Revenue Service
Form 17

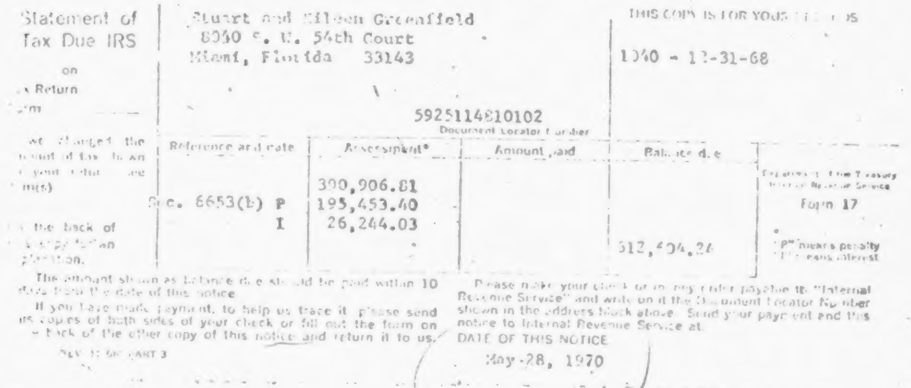
*"P" means penalty "I" means interest

The amount shown as balance due should be paid within 10 days from the date of this notice.

If you have made payment, to help us trace it, please send us copies of both sides of your check or fill out the form on the back of the other copy of this notice and return it to us.

Please make your check or money order payable to "Internal Revenue Service" and write on it the Document Locator Number shown in the address block above. Send your payment and this notice to Internal Revenue Service at:

DATE OF THIS NOTICE



Statement of Tax Due IRS on Tax Return Form

Stuart and Eileen Greenfield
8040 S. W. 54th Court
Miami, Florida 33143

THIS COPY IS FOR YOUR RECORDS

1040 - 12-31-68

5925114810102
Document Locator Number

If we changed the amount of tax shown on your return, see item(s) on the back of this copy for an explanation.

Reference and date	Assessment*	Amount paid	Balance due
	390,906.81		
Sec. 6653(b) P	195,453.40		
I	26,244.03		
			612,604.24

Department of the Treasury Internal Revenue Service
Form 17

*"P" means penalty "I" means interest

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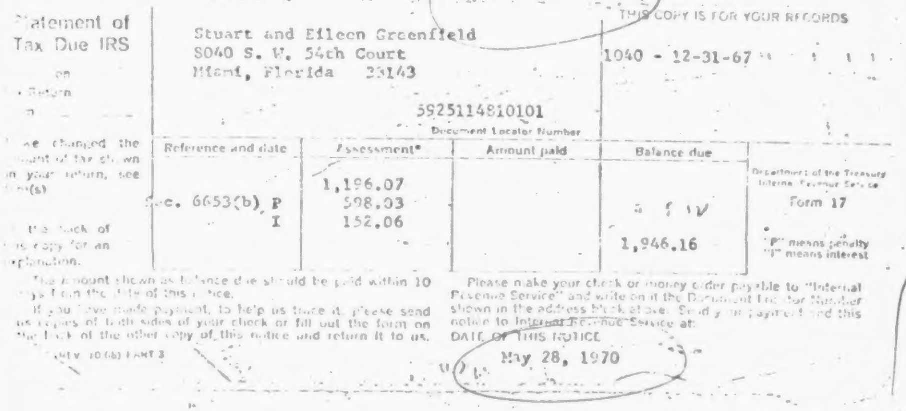
If you have made payment, to help us trace it, please send us copies of both sides of your check or fill out the form on the back of the other copy of this notice and return it to us.

(REV. 10-66) PART 3

Please make your check or money order payable to "Internal Revenue Service" and write on it the Document Locator Number shown in the address block above. Send your payment and this notice to Internal Revenue Service at:

DATE OF THIS NOTICE
May 28, 1970



Statement of Tax Due IRS on Tax Return Form

Stuart and Eileen Greenfield
8040 S. W. 54th Court
Miami, Florida 33143

THIS COPY IS FOR YOUR RECORDS

1040 - 12-31-67

5925114810101
Document Locator Number

If we changed the amount of tax shown on your return, see item(s) on the back of this copy for an explanation.

Reference and date	Assessment*	Amount paid	Balance due
	1,196.07		
Sec. 6653(b) P	598.03		
I	152.06		
			1,946.16

Department of the Treasury Internal Revenue Service
Form 17

*"P" means penalty "I" means interest

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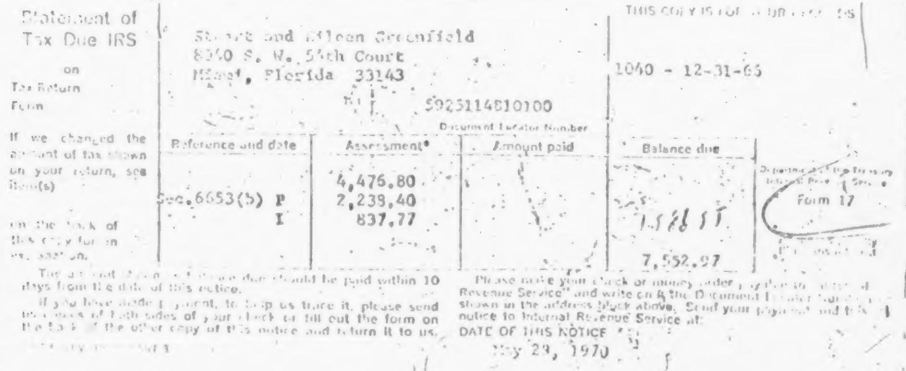

Statement of Tax Due IRS on Tax Return Form

Stuart and Eileen Greenfield
8040 S. W. 54th Court
Miami, Florida 33143

THIS COPY IS FOR YOUR RECORDS

1040 - 12-31-66

5925114810100
Document Locator Number

If we changed the amount of tax shown on your return, see item(s) on the back of this copy for an explanation.

Reference and date	Assessment*	Amount paid	Balance due
	4,476.80		
Sec. 6653(b) P	2,238.40		
I	837.77		
			7,552.97

Department of the Treasury Internal Revenue Service
Form 17

The amount shown as balance due should be paid within 10 days from the date of this notice.

If you have made payment, to help us trace it, please send us copies of both sides of your check or fill out the form on the back of the other copy of this notice and return it to us.

Please make your check or money order payable to "Internal Revenue Service" and write on it the Document Locator Number shown in the address block above. Send your payment and this notice to Internal Revenue Service at:

DATE OF THIS NOTICE
May 28, 1970

GENERAL AFFIDAVIT

State of Florida)
)
County of Dade)

Re:
Judge Ellen Marfonias

I, Stuart B. Greenfield of 8040 S.W. 54 Court, Miami, Florida, being duly sworn do hereby depose and state:

On August 31, 1971 at 3:00 PM I appeared in Court at the request of the State Attorney's Office to testify on behalf of the State of Florida vs Albert Baitcher on a criminal case.

The trial judge was Judge Ellen Marfonias, Judge of the criminal court in Miami Florida.

The case was the result of my filing a complaint with the City of Miami Police Department against one Albert Baitcher who forged my name to a check for an excess of $2,000.00. The check was made out to Stuart Greenfield and Albert Baitcher. Mr. Baitcher never gave me any proceeds from the money he obtained nor had any intention of doing so. The check was drawn on a joint account with the stock brokerage firm of Hentz and Co..

When I stopped receiving monthly statements, I went to Hentz to find out what was wrong. They informed me that Mr. Baitcher came in and ordered the sale of all the stock in the account and asked them to please give him the check, that he was authorized to pick it up for me.

The City of Miami Police Department then investigated the incident and lodged a complaint with the State Attorney's Office for criminal charges against Mr. Baitcher.

In the middle of the trial, while I was being cross examined by Mr. Baitcher's attorney, Mr. Irving Whitman, Mr. Baitcher was suddenly called from the court room as can be noted in the transcript of the trial (attached). He returned a few minutes later with Mr. Samuel Carlton and Mr. Wondersheid, both agents of the IRS. Mr. Whitman then approached the bench and had a private conversation, off the record, with Judge Marfonias. Judge Marfonias then called a recess and asked Mr. Whitman to bring the defendant and the two IRS officers into her chambers. The State Attorney and myself were not allowed to attend this conference.

A little while later the Judge re-convened the trial and almost immediately gave a directed verdict in favor of the defendant. Needless to say I was quite shocked since the State Attorney told me that this was an open and shut case against Mr. Baitcher. At the time, I could only suspect that IRS had requested the judge not to hold Baitcher since he was working with them as an informant for IRS.

At a later date while sitting in the Federal Courthouse awaiting a hearing one of the government attorneys admitted to me that this is exactly what had happened, even though he did not agree with it nor did he think Carlton and Wondersheid were given permission and probably had acted on their own, especially since Baitcher and Carlton had become such close friends.

Sworn to and subscribed before me this --9--day of--Sept--1978

Notary Public

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DEC. 11 1981
BONDED THRU GENERAL INS. UNDERWRITERS

GENERAL AFFIDAVIT

State of Florida)
)
County of Dade)

I, Stuart B. Greenfield of 8040 S.W. 54 Court, Miami, Florida being duly sworn do hereby depose and state:

While I was incarcerated in the Lexington Correctional Institution in Lexington Kentucky, I made contact with the Internal Investigation Department of the IRS regarding Albert Baitcher and Samuel Carlton.

An IRS agent was despatched to see me at Lexington. I gave this agent signed affidavits as to Samuel Carlton and Albert Baticher. A few weeks later I was again contacted by the same IRS agent and was told that upon investigation he found that he could do nothing since the files on Mr. Baitcher had been sealed. He told me that this usually meant that some kind of deal had been made with the government. I asked him if they also did this with an informers file. He told me that he would not say whether or not Mr. Baitcher was the informer, but that yes...files were normally sealed in cases involving informers.

Upon my continuing investigation I also found that the files in the local police Department (Miami) were also sealed on Mr. Baitcher. It then became obvious to me that Mr. Baitcher had a history of informing. I gained this information from a reliable source.

Sworn to and subscribed before me this 7--day of Sept--1978

Notary Public

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DEC 11 1981
BONDED THRU GENERAL INS UNDERWRITERS

GENERAL AFFIDAVIT

State of Florida)
)
County of Dade)

I, Stuart B. Greenfield, of 8040 SW 54 Court, Miami, Florida, being duly sworn do hereby depose and state:

That on May 30th, 1970 4 IRS agents seized my boat and stated that they had authority to do so on a jeopardy assessment made against myself and my wife in the amount of over $630.000.00.

Throughout this seizure the agents were unable to produce any documentation regarding the jeopardy assessment, nor did they produce any documentation authorizing said seizure, or search.

This incident occurred on a Saturday. That Monday I contacted the office of G.T. Register, Chief of the Intelligence Division IRS, in Jacksonville Florida. I was told by Mr. Register's Secretary that he was out of town and that he had been out of town for at least a week.

When the jeopardy assessment papers were finally produced so that my lawyer could inspect them, which was well over a week later, it was noted that the papers had been authorized and signed by G.T. Register in Jacksonville, Florida on May 28th 1970.

It is my opinion that these jeopardy assessment papers were either forged or they were backdated by Mr. Register after the fact of the seizure, as according to his own secretary Mr. Register was not in Jacksonville, Florida on May 28th, 1970.

Additionally, IRS agent McMillan, admitted during a conversation with my attorney Barney Fleisher that there was "backtracking" on the jeopardy assessment papers and that the whole incident was a mess. Mr. McMillan has since denied ever having made such statements.

I declare under penalty of perjury that the statements contained herein are true and correct to the best of my knowledge.

________________________________,

Sworn to and subscribed before me this---9---day of---September---1978

____
Notary Public

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DEC. 11 1981
BONDED THRU GENERAL INS. UNDERWRITERS

GENERAL AFFIDAVIT

State of Florida)
)
County of Dade)

I, Stuart B. Greenfield of 8040 S.W. 54 Court, Miami, Florida, being duly sworn do hereby depose and state:

In 1970 or 1971 I was contacted by an I.R.S. Agent by the name of Harry Woodington. He told me that he was down in Miami on a special assignment to gather information on certain people because of I.R.S. violations.
He told me that he could be very helpful to me if I would cooperate with him.

Primarily he wanted information from me about a local man named Bebe Rebozzo. I explained that I scarcely knew Mr. Rebozzo and that I only knew him because of the coin laundries which he owned. We did maintenance of the washers and dryers for Mr. Rebozzo and the only other time I ever met with him was at a bank he owned on Key Biscayne relative to the washing machines. Mr. Woodington suggested that I give some deep thought to cooperating with him and he let me know that I.R.S. could treat me very harshly if I didn't cooperate.

Following this meeting with Mr. Woodington I was contacted by a Special I.R.S. agent Samuel Carlton who was fully familiar with Mr. Woodington's conversation with me. Woodington, by the way, told me that I was not to discuss his meeting with me with anyone even any other I.R.S. personnel. He said that this was a "Top Secret" investigation. When Carlton told me that he knew of my meeting with Woodington I was quite shocked. Carlton went on to tell me that Woodington is in " a lot of trouble" and that "he is not authorized to investigate Mr. Rebozzo or even to be here in Miami" and further more if I did give Mr. Woodington any information about Mr. Rebozzo or anyone else he would see that I would be treated very harshly by I/RS or others who were capable of making it very uncomfortable.... even so far as giving a veiled threat as to my physical health and well being.

I never heard from Mr. Woodington again or had any further conversations with Mr. Carlton regarding this subject, however on August 1, 1975 I saw an article in the Miami Herald with a picture of agent Woodington and a story that he was secretly sent to Miami to investigate several local judges and Miami political figures for corruption and that he had been pulled off of this assignment under pressure. When he treatened to file a complaint with the Civil Service Commission he was given a job....a plush job....as a Customs Officer to keep him from filing this complaint.

Sworn to and subscribed before me this ---9----day of---Sept----1978

Notary Public

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DEC. 11 1981
BONDED THRU GENERAL INS. UNDERWRITERS

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6
UNITED STATES GOVERNMENT

Memorandum

TO : Edward T. Joyce, Acting Chief
Organized Crime & Racketeering Section

DATE: February 8, 1972
WMcC/ik

FROM : William L. McCulley, Trial Attorney
Miami Strike Force

SUBJECT: Stuart Greenfield
8040 S.W. 54th Court
Miami, Florida

By letter dated March 25, 1971 Regional Counsel, Southeast Region, forwarded to the Department Special Agent Samuel L. Carlton's report and exhibits relative to an IRS investigation of Mr. Greenfield's tax affairs. The Special Agent recommended, and the District Director, Jacksonville District, concurred in that recommendation that Stuart Greenville be prosecuted for attempted evasion of part of his income tax for the years 1966 and 1968 pursuant to 26 USC 7201 and for filing false income tax returns under the penalty of perjury which he did not believe to be true and correct as to every material matter for 1966 and 1968 pursuant to 26 USC 7206(1). Regional Counsel recommended against prosecution. I concur in the recommendation of the Special Agent and the District Director.

Basis of Special Agent's Recommendations:

The taxpayer is in his early forty's and has been an executive in various corporations in Miami from 1962 through 1965. Apparently he lived in the New York City area prior to 1962. Early in 1966 he was a co-receiver in Coin Meter Company in Miami. Also in 1966 he and his wife organized Meter Maid Laundries, all stock being in his wife's name with him as president. In the fall of 1966 one-half of the stock was sold and the gain not reported. In 1968 the taxpayer became president and chairman of Meter Maid Industries, Inc., which was North American Cigarette Manufacturers, Inc. until February, 1968, when its name was changed. Taxpayer's wife'

AJ 5-18-8240
Cle

8

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

stock in Meter Maid Laundries was exchanged in February 1968 for 1,200,000 shares out of the 5,000,000 shares of North American's authorized stock. During 1968 Meter Maid Industries acquired several other corporations through stock exchanges. During 1968 the taxpayer had many questionable acquisitions and sales of Meter Maid Industries stock involving substantial amounts which he did not report on his 1968 income tax return.

The Special Agent bases his recommendation for prosecution on the following items and adjustments:

	1966	1968
Commissions Unreported	$1,593.32	
Fees Unreported	1,554.00	
Capital Gain Unreported (Long-term 50%)	5,077.33	$ (4,970.90)
Interest Unreported	21.57	
Unreported Income from Misappropriated Stock Sales		68,594.90
Unreported Income from Shakedowns		291,750.00
Additional Deduction: Judgment paid		(1,231.05)
Additional Taxable Income	$8,246.22	$354,142.95
Taxable Income Reported	(1,321.22)	16,981.22
Corrected Taxable Income	$6,925.00	$371,124.17
Corrected Tax Liability	$1,175.75	$244,475.02
Reported Tax Liability	-0-	3,792.29
Additional tax	$1,175.75	$240,682.73

The Special Agent has set forth in great detail the basis and evidence for these adjustments. With the exception of the $291,750 item designated as "unreported income from shakedowns" for the year 1968, I believe the items are sufficiently documented and the circumstances surrounding them such as to make the taxpayer's contentions at the interviews and conferences held with the Intelligence Division and with Regional Counsel untenable. Regional Counsel, it seems to me, has accepted as proven or susceptible of proof completely unfounded claims as to reasons why the taxpayer failed to report the above items correctly on his income tax returns for the years in question.

Although I will discuss it later in greater detail, the $291,750 item is susceptible to questions as to what year taxable income was received and the amounts of income (value of stock received) so as to make its value as a criminal item somewhat doubtful.

Regional Counsel's Objections

As to the year 1966 Regional Counsel takes the position that the deficiency in tax is "de minimus" and that the largest item, an unreported long-term capital gain of $5,077.33, is "more in the nature of a civil adjustment than a criminal item". Further, Regional Counsel gives what I consider undue weight to the "possibility * * * " (underscoring supplied) that the taxpayer may have been entitled to more deductions for that year than he actually claimed on his return.

For the year 1968, Regional Counsel deals only with the $291,750.00 item referred to in the schedule above as "unreported income from shakedowns", since it is the major items of additional income for that year. No reference whatsoever is made to the lesser item of $68,594.90 in that year. Regional Counsel takes the position that the taxpayer could defend against the $291,750.00 item, the item being based on a shakedown acquisition of 385,000 shares of stock by the taxpayer, on the ground that he was acting "as an agent for the corporation in his capacity as president and accepted the shares of stock for the corporation", and also that the taxpayer stated that he did not cancel the shares of stock "on the advice of his attorney".

Further militating against the successful prosecution of this case, according to Regional Counsel, are the following: (1) the return preparer's (Robert Strang) lack of knowledge of the 1968 transactions, relationship to the taxpayer, and possible deficient knowledge of income tax law; (2) taxpayer's mental health; (3) the IRS investigation was begun prior to filing the 1968 income tax return; (4) "forgiveness" by taxpayer in 1969 of notes due from the corporation to him which notes arose from the deposit in the corporate accounts of proceeds from the sale of corporate stock misappropriated by the taxpayer (5) lack of evidence regarding advice given by third party experts to the taxpayer.

My Position:

In Supplemental Special Agent's Report dated May 5, 1971, Samuel L. Carlton has very cogently, and in great detail answered Regional Counsel's objections to the prosecution of this case. I do not think it necessary that I repeat what Special Agent Carlton has stated in his supplemental report, all of which I agree with and believe points up quite clearly the overall fallacy of Regional Counsel's position in this case.

Admittedly, the case is not a perfect one. How many income tax cases are? I concede that the tax deficiency for the year 1966 is not large. But taken as a percentage of the total tax liability, the deficiency is 100%. Further, whereas the taxpayer reported a negative taxable income figure, he in fact had a taxable income of $6,925.00. As was stated by the Court in U.S. v. Schenck, 126 F.2d 720 (2d Cir., 1942) the "proof is sufficient if it shows any substantial portion of the tax liability to have been wilfully evaded". Here, we have all of the tax liability having been omitted. The omitted "portion" could not therefore be larger, and I cannot consider it "de minimis" as does Regional Counsel. Whether there is sufficient proof that the taxpayer wilfully evaded his tax liability may be open to question; in my opinion, whether the tax deficiency in question is large enough to obtain a conviction if the other necessary elements of a tax evasion case are proved is not.

In any event, a false return case (Section 7206(1)) could be made without proving any tax deficiency whatsoever. The major omission for the year 1966 was the long-term capital gain of $5,077.33. The taxpayer claims this omission was on advice of counsel, but it is significant, that the taxpayer has not produced a statement from the attorney who allegedly gave him such advice. This taxpayer has lied on so many occasions, including a sworn affidavit before the Tax Court of the United States, that if he should ever take the witness stand, his credibility could be absolutely destroyed. His only chance would be to produce third party witnesses to back up his allegations. If he could do that I am convinced that he already would have done so. Other omitted items of commissions, fees and interest, though each one in itself would perhaps not prove necessary wilfullness, when taken with the substantial unreported capital gain are enough, in my opinion, to convince a jury that this taxpayer attempted to evade his income taxes for 1966 and knowingly filed a false return for that year.

The year 1968 is by far the better year insofar as the amount of tax deficiency is concerned. That year does, however, have the elements of the taxpayer's mental health and fact that the investigation had commenced prior to the filing of that year's tax return. While these elements are certainly not helpful to prosecuting for this year, I do not consider them to be crucial.

Almost all of the 1968 item of omitted income of $291,750.00 came about from the special agents determination that the taxpayer had obtained 385,000 shares of Meter Maid Industries stock as a result of a shakedown. In my opinion the special agent has obtained sufficient evidence to prove this point, contrary to Regional Counsel's apparent concern that the taxpayer will claim he obtained and held this stock for the benefit of the company. The real weaknesses in this item, in my opinion, are (1) the valuation problem, since the stock was restricted; (2) the fact that we have no proof in the file that the taxpayer ever sold any of this stock and personally used the proceeds of sale or otherwise used the stock for his personal benefit and (3) the fact that we do not know whether the taxpayer reported sales of this stock in subsequent years.

It may be correct that the taxpayer had taxable income when he received the stock in question as a result of a "shake-down". Proving a value of a very large block of restricted stock can be an almost impossible task when there is a thin market in the stock. Furthermore, a taxpayer could rationally argue, and be quite convincing to a jury, that he didn't believe he had taxable income until he sold the stock. This would be, I think, especially true if the taxpayer in fact sold some of the stock in subsequent years and did in fact report such sale.

I believe this item should be made a part of the criminal case so as to show the jury the kind of dealings in which this taxpayer engages. As much rational argument as the taxpayer can put forth, as to why he should not be convicted on this item, the transaction itself should make a jury aware that he has no moral hesitancy to defraud the public and other stockholders of the corporation, and therefore would probably not hesitate to cheat the United States out of income taxes due and knowingly file false returns.

The best and strongest criminal fraud items for the 1968 tax year is the $68,594.90 item designated as unreported income from misappropriated stock sales. As pointed out by the special agent at page 29 of his report, the taxpayer disposed of this $68,594.90 as follows:

Deposited in personal banking account	$13,855.40
Check cashed	263.50
Applied on personal organ purchase, interior decorating or automobile	8,805.75
Applied on personal residence addition and remodeling	27,507.25
Deposited in Meter Maid Industries as loan from taxpayer	18,163.00
total	$68,594.90

This personal use of misappropriated stock sales and failure to report such income, in my opionion, is sufficient alone to warrant prosecution on evasion and false return counts for the year 1968.

Miscellaneous Information

There is presently under consideration in the Tax Division, Department of Justice, a recommendation by the Internal Revenue Service that Stuart Greenfield be prosecuted for removal and concealment, with intent to defraud, of property upon which levy was authorized (26 U.S.C. 7206(4)) and for wilfully making a false statement as to a material fact (18 U.S.C. 1001). The investigation of these charges was undertaken by IRS at my instigations.

This taxpayer is alleged to be associated with Chicago and Miami organized crime figures such as David, Ron and Lennie Yaras, George Khoury, Max Rothfield, Salvator DiPietro and others. He is believed to operate as a front for organized crime stock swindles and bankruptcy frauds. It is known that many very shady individuals held stock in and made money on Meter Maid Industries. Meter Maid is now in bankruptcy. Allegedly another corporation controlled by this taxpayer has recently gone into bankruptcy.

Because jeopardy assessments were made against the taxpayer, statutory notices of deficiency were required to be issued to the taxpayer for the years 1966, 1967 and 1968. Because of the issuance of these notices of deficiency the taxpayer filed a petition with the Tax Court of the United States contesting the alleged deficiencies. The Tax Court has placed this case on its Miami Calendar beginning April 24, 1972.

Conclusions and Recommendations

Based on the information and evidence contained in the investigative report in this case, I concur in the recommendation of the Intelligence Division, that Stuart Greenfield be prosecuted for attempted evasion of part of his income tax for the years 1966 and 1968 and for filing false income tax returns under the penalties of perjury which he did not believe to be true and correct as to every material matter for those same years.

I also recommend that if prosecution is authorized in this case, that it be done in time to obtain indictments prior to the scheduled tax court trial of the case on April 24, 1972. If this is accomplished, Regional Counsel should be requested to move for a continuance of the tax court trial. I believe that the tax court would grant such a motion if the indictment is obtained prior to beginning such trial.

8040 SW 54 Ct.,
Miami Fla. 33143
June 28,1982

FULL COMMITTEE HAS COPY

Committee on Ways And Means
U.S. House Of Representatives
Washington D.C. 20515

RECEIVED
JUL 7 1982
Ways and Means
Subcommittee on Oversight

Att: Cong. Charles R. Wrangle
Chairman, Subcommittee On Oversight
U.S. House Of Representatives
Washington D.C. 20515

Dear Congressman Wrangle;.

I am writing in answer to your letter of june 14 wherein you enclosed a copy of IRS Com. Eggers testimony befor your committee on April 26th of this year regarding "Taxpayers Safeguards". You have given me the opportunity to respond for the record to Eggers testimony relative to my own difficulties with the IRS over a period of 12 years+,and for that I truly thank you.

I ama bit dismayed by some of the changes that have been made to the transcript which was suppossed to be directly from the testimony itself. One important change was changing the dates from those that he testified to,to other years. If in fact he has made errors in his testimony,then let the record reflect his admission of same,not just change the transcript with no attention called to this important change. Eggers went on to testify that the only affadavits relative to my charges against the IRS abuses were some filed in the US Tax Court. The commissioner well knows, if he checked out this case as he says he has done,that there were numerous afadavits filed in the various US District courts and other US Agencies as well. He went on to say that "To the best of my ability and anyone elses we are unable to uncover any real indication of the abuse to which Greenfield refers".Who is the anybody else Eggers refers to? It appears that Commissioner Eggers is naive or is being duped by others in his own department into becoming a co-conspirator in this cover up of citizen Greenfield abuse.

If in fact the commissioner is unable to smell a rat by now,within his own department,despite the documentation supplied,then he must truly be suffering from a bad case of nasal congestion.

Eggers went on to say that"The only thing I was aware of was the seizing a boat, because the department had sound indication that Greenfield was leaving the country".The commissioner is well aware as his department that the information he referedto was from one Albert Baitcher(unrealiable Informant for IRS) was untrue even befor prosecution commenced..... Evidence as to their knowledge has been documented and given to the committee.

Either the Commissioner chose not to tell the truth or his underlings had already purged the files to prevent him from being able to properly investigate this case and report on same to this committee.

Further, to compound the information he gave the committee he went on to say that the "only current action is a suit to reduce the aleged taxes to a judgement..... THIS IS UNTRUE IN IT'S ENTIRETY. Not only are they keeping said suit alive even though it was filed after the statute of Limitations ran out,there have been over twenty continuances and about seven Federal District Court Judges. There are continuing threats to remove me from my home and put our family on the street,even since the hearings.

Is it possible that when Eggers agreed to report on this case to the Committee he could have overlooked the above? I doub't it and I'm sure the members of this panel are far to intelligent to be duped again,in light of the evidence submitted by me.

STUART B. GREENFIELD

GOVERNMENT IRREGULARITY

Stuart Greenfield wished to have his tax case heard in tax court before he went to court on criminal charges for alleged income tax evasion and perjury (ie: signing his 1968 tax return while not believing it to be true and correct).
The tax case had come up on numerous occasions before Tax court both in Washington and Miami. On every occasion the IRS either did not show up or were "unprepared", so they claim to argue the case.
On April 24, 1972 Greenfield's case was scheduled to be heard before the US Tax Court .
Again, IRS counsel asked for a continuance.
Judge Raum immediately granted the IRS their continuance.

Years later, after Stuart Greenfield had been tried and convicted in criminal court, and after having served 4 months in a Federal Prison for tax law violation, he received documents pertaining to his case through the Freedom of Information Act.
One such document received was dated April 6, 1972. It was a SUPPLEMENTAL MEMORANDUM FOR ASSISTANT ATTORNEY GENERAL CRAMPTON, PROPOSED CRIMINAL PROSECUTION from Willard C. McBride, Justice Department prosecutor.
This document states:
"However, because of a tax court hearing set for April 24, 1972, if an indictment is to be returned, both Internal Revenue and the Criminal Division are desirous that the indictment be returned in advance of April 24, 1972, after which the tax court will continue the hearing to a date subsequent to the criminal case. (our emphasis)

THE TRUTH

JUDGE RAUM, FEDERAL TAX COURT JUDGE, CONSPIRED WITH JUSTICE DEPARTMENT PROSECUTORS.

HOW ELSE WOULD THE JUSTICE DEPARTMENT HAVE KNOWN THE FINAL OUTCOME OF THE TAX COURT HEARING BEFORE IT EVEN OCCURRED?

See documents
Doc 1 Stuart Greenfield Affidavit
Docs 2-10 Justice Department memorandum

GOVERNMENT IRREGULARITY

Mr. Albert Baitcher was used as a key government witness in the IRS case vs Stuart Greenfield.
He was hhe IRS informant

In the fall of 1968 Al Baitcher was sued by USA for health violations in his warehouse. In a motion filed before Judge Joe Eaton Al Baitcher testified Sept 9th, in an attempt to have his fine mitigated. His testimony is as follows: "I have been trying very hard in the last several months to keep this business together and not file anything in bankruptcy. No later than today, I did not deposit any money in my bank last Friday, I had 17 checks going back today because of the fact they refused to give me the funds until this afternoon, and every penny, as far as I am concerned counts to me.

Judge Joe Eaton mitigated his fine

In August of 1973 Al Baitcher testifies for the government on the Stuart Greenfield case.
Baitcher testifies that in 1968 in the fall he was not having any financial difficulties at all...."Otherwise the bank would not have loaned me a quarter of a million dollars."

THE TRUTH

STUART GREENFIELD SPENT 4 MONTHS IN THE LEXINGTON FEDERAL CORRECTIONAL INSTITUTION AS A RESULT OF TESTIMONY SUCH AS THAT FROM AL BAITCHER AND HIS FRIEND AND CONFIDANT SAMUEL CARLTON, SPECIAL AGENT IRS.

THE "JUDAS" BRUSH HAS CERTAINLY PAINTED A FINE PICTURE FOR UNCLE SAM

SEE DOCUMENTS ATTACHED

Docs 1-3 motion filed in behalf od Al Baitcher for mitigation of fine

Docs 4-6 Testimony of Al Baitcher in Stuart Greenfield.

GOVERNMENT IRREGULARITY

In the case of IRS vs Stuart Greenfield, Samuel Carlton , IRS Special Agent assigned to investigate Stuart Greenffeld and Meter Maid Industries, used one Albert Baitcher as an informant in the case.
The entire IRS case was built up around information gleaned from Al Baitcher, and from sworn testimony of Al Baitcher.
One of the special agents involved in the case was a nephew of Al Baitchers.
Baitcher and Carlton became very close friends during the year long investigation.

THE TRUTH

ALBERT BAITCHER HAD A GREAT DEAL TO GAIN IF STUART GREENFIELD WAS FOUND GUILTY OF TAX LAW VIOLATIONS IN A CRIMINAL CASE.
AL BAITCHER WORKED FOR A SUBSIDIARY OF METER MAID INDUSTRIES OF WHICH STUART GREENFIELD WAS THE PRESIDENT AND CHAIRMAN OF THE BOARD.
IF GREENFIELD WERE VOTED OUT OF THE COMPANY BAITCHER WOULD BE ABLE TO STEP IN AS HIS SUCCESSOR AND WOULD STAND TO MAKE A GREAT DEAL OF MONEY IN ADDITION TO HIS 10% FOR BEING THE IRS INFORMANT.

NATURALLY HIS FRIENDS AND RELATIVES WOULD STAND TO SHARE A PIECE OF THE PIE.

WHEN ASKED UNDER OATH IF HE INFORMED INTERNAL REVENUE SERVICE THAT MR. GREENFILED WAS ATTEMPTING TO LEAVE THE COUNTRY AND TAKE SOME MONEY OUT OF THE COUNTRY AL BAITCHER ANSWERED "NO, I DIDN'T".
DOCUMENTS FROM THE JUSTICE DEPARTMENT RECEIVED UNDER THE FOI ACT SHOW DIFFERENTLY

MR. WARREN SEESE TESTIFIED IN THE SECOND CRIMINAL TRIAL INVOLVING STUART GREENFIELD'S ALLEGED TAX LAW VIOLATION THAT ALBERT BAITCHER DISCUSSED KILLING MR. GREENFIELD AS A SOLUTION TO THE COMPANY PROBLEMS.

AL BAITCHER WAS MADE TO SAY ANYTHING THE GOVERNMENT WANTED HIM TO SAY DURING THE CRIMINAL TRIAL. ACCORDING TO JUSTICE DEPARTMENT DOCUMENTS THE INFORMANT (AL BAITCHER) COULD BE TURNED WITH A "JUDAS" BRUSH.

See Documents attached

Docs 1-11	Memorandum for Acting Assistant Attorney General Ugast Re: Stuart Greenfield Proposed Criminal Prosecution From: Willard C. McBride Justice Department Prosecutor
Docs 12-16	Testimony of Al Baitcher in first Criminal trial
Docs 18-24	Testimony of Warren Seese second criminal trial re having Greenfield murdered)

GOVERNMENT IRREGULARITY

During the first criminal trial involving Stuart Greenfield's tax case Jack Lynch, attorney for Mr. Greenfield was given a copy of Samuel Carlton's Special Report. Samuel Carlton, Special Agent for the IRS had been asigned to investigate Stuart Greenfield and wrote up a Special Report at the conclusion of his investigation.

This report was given to Lynch in error by the prosecutors assisting attorney.

During a lunch break Lynch and Greenfield read the Special Agent Report.

The report contained false allegations concerning Greenfield's alleged association with a well known MAFIA figure "Trigger Mike Cupola". The report stated that Greenfield was a close associate of "Trigger Mike Cupola".

The report also contained information on how Greenfield had nearly caught one of the government men in his home.

According to an affidavit sworn out by Greenfield the report said to the best of his knowledge."One of our men was just leaving the house after doing some special assignment work and there would have certainly been an explosion if he were caught."

This report was immediately returned to Judge Joe Eaton after the lunch break by Jack Lynch.

THE TRUTH

SAMUEL CARLTON, SPECIAL IRS AGENT, LIED IN THIS REPORT.

STUART GREENFIELD NEVER HAD ANY DEALINGS WITH "TRIGGER MIKE CUPOLA" AND IN FACT THE ONLY "TRIGGER MIKE" STUART EVER KNEW WAS A CLOSE FRIEND BY THE NAME OF MIKE CARTER. MIKE CARTER WAS A WOMAN AND WORKED AS A POLICE OFFICER FOR THE MIAMI POLICE DEPARTMENT. STUART'S NICKNAME FOR MRS. CARTER WAS "TRIGGER MIKE" SINCE SHE CARRIED A GUN IN HER LINE OF WORK.

WHEN STUART TELEPHONED MRS. CARTER THROUGHOUT THE YEAR CARLTON WAS CONDUCTING HIS INVESTIGATION HE WOULD ALWAYS ASK FOR "TRIGGER MIKE".

COULD IT BE THAT THE "SPECIAL ASSIGNMENT WORK" CARLTON'S MAN WAS DOING IN STUART GREENFIELD'S HOME WAS INSTALLING ILLEGAL TELEPHONE SURVEILLANCE?

SAMUEL CARLTON, JUDGE JOE EATON AND THE PROSECUTING ATTORNEY'S ARE THE ONLY ONES THAT WOULD EVER BE ABLE TO ANSWER THAT QUESTION.

AFTER READING THE SPECIAL REPORT JUDGE JOE EATON RULED THAT IT WAS NOT JENCKS MATERIAL, THAT IT CONTAINED OPINIONS OF GOVERNMENT COUNSEL AND INNER WORKINGS OF THE IRS AND THAT IT BE SEALED.

INTERESTINGLY ENOUGH JUDGE EATON ALLOWED GOVERNMENT COUNSEL (PRIOR TO THE REPORT BEING SEALED) TO REMOVE THE ORIGINAL AND SUBSTITUTE A COPY. The following Day.

NEEDLESS TO SAY THE "SPECIAL REPORT" THAT STUART GREENFIELD RECEIVED LATER UNDER THE FREEDOM OF INFORMATION ACT WAS ON DIFFERENT SIZED PAPER, WAS MUCH THINNER AND DID NOT CONTAIN ANY OF THE IRS "INNER WORKINGS"

SEE DOCUMENTS ATTACHED

Docs 1-8 Defense counsel, Government counsel and court discussion re Special Report

GOVERNMENT IRREGULARITY

Samuel Carlton, Special Agent IRS, testifies under oath before Federal Judge Joe Eaton in the U.S. District Court in the first criminal case of IRS vs Stuart Greenfield.
Carlton was asked by Defense Counsel: "If there was an informer, did he testify in this trial?"
Carlton responded: "If there was an informer, he did not testify in this trial."

Samuel Carlton, Special Agent IRS, testifies under oath before FederalJudge Joe Eaton in the second criminal case of Stuart Greenfield (first trial was declared a mistrial).
Carlton was asked by government counsel: "Mr. Carlton, I believe Mr. Lynch asked you earlier something about an informant, if there was an informer and I am not saying there was or was not, but if there was did he testify in this case, sir?"
Carlton responded: "If there was an informer neither he nor she have ever testified in this case."

THE TRUTH

THERE WAS INDEED AN IRS INFORMER IN THE STUART GREENFIELD CASE.
THIS INFORMER, ALBERT BAITCHER, TESTIFIED AT THE FIRST AND SECOND CRIMINAL TRIALS
SAMUEL CARLTON WAS WELL AWARE OF THAT FACT.

DOCUMENTATION RECEIVED BY STUART GREENFIELD UNDER THE FREEDOM OF INFORMATION ACT, AFTER HE HAD SERVED 4 MONTHS AT LEXINGTON FEDERAL CORRECTIONAL INSTITUTION FOR TAX LAW VIOLATION, SHOWS THAT ALBERT BAITCHER WAS THE IRS INFORMANT.
THIS FOI DOCUMENT STATES:
'information from an informant was to the effect that greenfield, on whom a possible criminal tax case was pending, was making preparations to leave the country.'

'That soon thereafter, Greenfield's attorney, Barney Fleisher and a man by the name of Al Baitcher (who, in fact, was the informer in the matter)'

'Although not indicated in the report, the special agent tells me that Al Baitcher was the person who informed the Internal Revenue Service of Greenfield's intention to leave the country, which precipitated the jeopardy assessment.'

'We also have an informant who can be turned with the "Judas" brush'

SEE DOCUMENTATION ATTACHED
Docs 1-6 Trial transcripts of 1st and 2nd criminal trials Carlton Testimony

Docs 7-16 Memorandum for Acting Assistant Attorney General Ugast
dated 10 November 1971
From Willard C. McBride Justice Department prosecutor
Proposed Criminal Prosecution

applicapble sections underlined

Docs 17 and 18 Testimony of Albert Baitcher in Stuart Greenfield case (1st trial)

Docs 19-21 Testimony of Albert Baitcher in Stuart Greenfield case (2nd trial)

GOVERNMENT IRREGULARITY

Samuel Carlton, Special Agent IRS, assigned to investigate Stuart Greenfield and Meter Maid in 1969 gets an attorney Merle Litman to sign a statement regarding legal fees Stuart paid to Mr. Litman. In Special Agent Carlton's final report on Greenfield he states re the Litman fee:
"The business expenses for 1966 listed above include $528.50 for legal fees to Litman. A copy of Litman's statement for this amount shows that it was for the case of Greenfield vs Von Zamft et al."

Carlton wrote a supplemental report on May 5, 1971 and referred a second time to the Litman legal fee.
"The last paragraph on page 40 of my original report relates to this legal fee of Greenfield vs Von Zamft. I composed the above quote in Litman's letter before he wrote the letter to me. I prepared a draft of what I wanted and Litman made few changes in the draft.
This quote was intended to refer to the Von Zamft case."

THE TRUTH

SAMUEL CARLTON PRESSURED MR. LITMAN TO SIGN THIS STATEMENT.
MR. LITMAN LATER TOLD STUART GREENFIELD RE THE LETTER THAT HE HAD "LITTLE CHOICE" IN THE MATTER.

THE QUESTION IS HOW MANY OTHER ARMS WERE TWISTED BY CARLTON TO SAY WHAT HE WANTED THEM TO SAY ABOUT MR. GREENFIELD?

IT HAS ALREADY BEEN ESTABLISHED THAT CARLTON'S INFORMANT COULD BE TURNED WITH THE "JUDAS" BRUSH. ONE WONDERS HOW MUCH ARM TWISTING WAS NEEDED TO PRODUCE SUCH AN AMENABLE GOVERNMENT WITNESS?

SEE DOCUMENTS ATTACHED.

Docs 1-9 Samuel Carlton's Supplemental report

Docs 10-14 Samuel Carlton's final report

Docs 15-24 Justice Department Memorandum

Chairman **Rangel**. I would like to point out to the subsequent witness we are going to have to find some way, if we are going to conclude these hearings today, to have the entire statement in the record and to make certain that the witness is able to summarize it in 5 minutes, which, of course, was explained when we accepted your agreement to participate.

Mr. Snyder.

STATEMENT OF DWIGHT SNYDER, OAKLAND, MD., ACCOMPANIED BY ARTHUR P. TRANAKOS, COUNSEL, ATLANTA, GA.

Mr. **Snyder**. Thank you, Mr. Chairman.

I am glad that we can be here today before this committee. We feel that we have had IRS abuse. Back in the 1950's, I started out in business. I had bought a business that went under, it had folded up. I was 20 and my wife was 17 and we bought this business and tried to get it back on its feet.

The first year we operated at a loss because of the condition that the business was in when we obtained it. The IRS came in and wanted to audit us. We gave them everything that we had. During the audit the IRS says, "We find that your books are fine. Prove that you paid tax on the products that you used out of your business."

That business being a slaughter house, meat was the only thing that we had used out of it, and we explained to them that we had rang it up as a cash sale, that we used it and the tax had been paid on it. They said, "Well, prove it." We had no way of proving it so they charged us double tax.

Then in the sixties, I have two checks here that a member of my family, one of them was given to the IRS which was increased, the amount of it after the IRS received it. The other check was made out and cashed without a signature.

For 1971 I was audited and the IRS went to the bank and got all of my checks, my expenses, and my income total. They sent me a bill for $48,600, and I did not get the 90-day letter. I was sick with pneumonia and I didn't know anything about it, and after I got able to go I went into the post office and it went back. I suppose it was a 90-day letter. I have never seen it.

We asked that this would be taken care of. The attorney for the IRS called me on the phone and I said, "We are going to see to it that you are harassed until we get everything you have."

Then we did not know what the actual calculation was of that tax liability. They would not tell us. I was into the office at different intervals, and they would not talk before tape recorders. They flatly refused.

Then they set up a raid. We said we would like to want due process of law, and we want due process of law or a hearing on this matter; we would pay the tax that was due and owing.

We are not a tax evader, and I am not a tax protester. We just want some justice from the IRS.

Mr. Steven Mopsic made it very clear. He made no bones about it from the Internal Revenue that he would see to it that we would be harassed until they had everything that we had.

Then in 1980 they set up a raid, and to my knowledge there has never been a raid conducted in the United States similar to this. They had 39 men with machineguns, shotguns, tear gas, knives, U.S. marshal SWAT team, and it was so abusive that the news media stepped in and the news media was asked to leave the premises.

Parade magazine picked it up, and Parade magazine published an article on it, which is very true to the facts in the case.

I was just informed recently by an inside source of the Government that if I hadn't exposed the things that I did on the Internal Revenue, that they would never have bothered me. In other words, the checks and the raid and the way they conducted it, they didn't do it. When they raided they came into our place of business. I was working. They pulled shotguns, machineguns on us.

I have never threatened an agent. I have never threatened anybody. We are not that kind of people. They went into our home with guns and they shoved my wife back, went through the house and ransacked it. They went in on my little 5-year-old girl that was playing upstairs, with guns.

My wife has since that been in the mental hospital for a period of approximately 6 weeks. At night our children will get up and they are crying. They will come over in our room and they will sleep on the bare floor before they will sleep in their beds.

During the court proceeding in Baltimore recently, we uncovered evidence that the agents knew our tax liability for 1971 was $890. Three different agents, the agent that made the assessment admitted that he knew it was wrong. Donald L. Temple of the IRS, Special Agent, admitted he knew it was wrong. He refused the records. John Sparks admitted that it was wrong on the witness stand, that he knew that it wasn't owing.

During the raid they had taken $15,000, and they sold it and then they turned around and sued me for $52,000 more, when they knew that it was only $890.

After the trial was over, and they admitted that, they went up to my neighbors and anybody that they could find that owed me money, they put a levy on them for what they had.

One of the IRS' witnesses that testified in my case was an Amish neighbor, with a family of seven. After he testified how he had been treated by the Internal Revenue Agent, Mr. Temple and so on, of investigation in my case, they took him upstairs behind locked doors. They told him when he left this life he was going down. They condemned his dress. They condemned his religion. They called him a liar, and that was right after lunch, and when that man came out of there that night at 4:30, I was in the hall, there was tears running down the man's face.

He said, "I have never been talked to, I have never been treated like this in my life."

We found two trucks hidden behind some trees just up the road from my place. And I went over to investigate it and we found two trucks of recording and surveillance equipment. We found four agents. We asked them who they were and who they worked for and they said they worked for Hecht's department stores. They lied to me about it.

Later on I questioned Mr. Temple about the recordings of the conversations and so on in Federal court under oath, and he denied that any phone was ever tapped, and later on during the trial we uncovered tapes that were made of conversations where they tried to call and see if they could get a threat or intimidation of agents over the phone.

We feel that this abuse has been more than is deserving to the people. We are willing to pay a fair and honest tax, and we want to do our share as American citizens. We feel that not only our family and I but the community has been very much harassed and taken advantage of in this case.

Thank you.

Chairman RANGEL. Thank you, Mr. Snyder.

There are some technical problems here. Is this your counsel that is with you?

Mr. SNYDER. Yes, sir.

Chairman RANGEL. Let me ask counsel some questions to make certain that we don't get involved in questions that may be inappropriate.

First of all, I want to thank you for your courage in coming forward today, Mr. Snyder, and discussing things which obviously have had a tremendous emotional impact on you and your family.

I assume this matter has been litigated.

Mr. TRANAKOS. It is presently——

Chairman RANGEL. Is that the status of the case?

Mr. TRANAKOS. Yes, it has been litigated to a certain extent. The Internal Revenue Service last year filed an action to convert their assessment lien into a judgment. That is presently pending in the Federal Courts in Baltimore, Md., and will be heard sometime probably this year.

We will be submitting supplementary information such as copies of the revenue agent's report, copies of the special agent's report for the committee's perusal to verify the $890 versus the $48,000 assessment.

Chairman RANGEL. Could we have your name for the record, counsel?

Mr. TRANAKOS. My name is Arthur Tranakos, T-r-a-n-a-k-o-s.

Chairman RANGEL. Counsel, the witness has signed a conditional statement which means that this committee would not be requiring that the Service respond, because permission has not been given for them to respond publicly, and we appreciate that.

That, of course, restricts what we can do in terms of responding to the allegations that have been made, and certainly we respect the right of counsel to protect the constitutional rights of the witness that is here and so I don't want my failure to ask questions to imply that we are not impressed with the integrity of the testimony. It is just that it is difficult to go any further here.

Mr. TRANAKOS. I will be reviewing the material and we will give the committee the authority to examine deeper into that material when I can prepare a detailed waiver of authority.

Chairman RANGEL. That would be very helpful, and to the degree that you would want this information publicized, I hope that you would put that in the record. We don't want to do anything to interfere with the judicial process. There is nothing whether the claimant pays taxes or doesn't pay taxes that warrants the type of treatment that has been alleged not only by the testimony but also by the article. We recognize, counsel, that it is a very thin line that you have to walk in protecting your client's legal rights, and at the same time exercising the rights of a citizen to bring your grievance to the Congress. We will be relying heavily on you, counsel, to give us the guidance as to what we can do to make certain that this case serves as a deterrent for other agents, and at the same time insure that we don't interfere with your client's right to recover whatever damages are being sought.

Mr. Crane.

Mr. CRANE. Thank you, Mr. Chairman.

I, too, want to commend Mr. Snyder for his courage in coming before the committee and relating his story. I first learned about your case, Mr. Snyder, in the Parade magazine article, and, again, since I have some Pennsylvania Dutch ancestry, I know you are one of the peaceful people, and it struck me as particularly outrageous that anyone would train a gun on anyone of your faith or your persuasion, and most especially given the circumstances that were related in that article.

Hearing your own personal account of what happened it is even worse than what I read in Parade magazine. Again, after the preceding testimony and your testimony I can only say that if there were even just a shred of truth, and 80 percent of it were fabrication, it is an outrage that Congress must assume responsibility for because we have obviously been remiss in doing our job. That that could happen to any citizen of this country really is impermissible.

Without violating any of your rights and making sure that I in no way interfere, and I shall lean upon your counsel to let me know if the questions are out of line, my understanding, and I want to make sure the facts that I have are correct, is that the IRS contended that you owned $890; is that correct?

Mr. SNYDER. That is what we found in the record during trial, yes.

Mr. CRANE. To date they have taken $13,000 of your property and they have sued you for another $52,000?

Mr. SNYDER. They took $16,000 worth of property, and sued for another $52,000 when they knew it was only $890 and they admitted it in open court, and then after the trial was over they went up and laid more levies.

Mr. TRANAKOS. If I might expand on that. What happened is there was a special agents investigation and report unknown to us until last year. They took the same bank deposits of $67,000 some-odd dollars and did not credit or deduct any expense money, so he came up with a tax liability of $32,000 some-odd dollars, plus penalties and interest, which ran it up to $48,000.

Whereas the special agent and the revenue agent had the checks from the bank, so he had the same checks the special agent had. When he came up with a figure of $57,900 some-odd dollars worth of business expenses, which resulted in $900 of tax liability, the revenue agent disregarded all deductions and expenses.

This was the 90-day letter that went to Mr. Snyder that he didn't receive because he was in bed in the hospital with pneumonia. That assessment ran through, and that is what they based their collection on. The collection was $16,000 and then some $3,000 in expenses.

Mr. **Crane**. So where do you stand right now as far as your ongoing litigation?

Mr. **Tranakos**. The Government has filed a suit to convert their assessment into a judgment, which they have to do at the end of 6 years or they lose it. That suit is now pending in the District Court of Maryland, and also be resolved sometime this year.

Chairman **Rangel**. Was there a criminal trial involved in this?

Mr. **Tranakos**. It was a special criminal trial that came on later. This information was uncovered as part of the discovery in that criminal trial for the first time.

Mr. **Crane**. Could I ask one more question?

Which amount are you trying to convert to the $890 figure, or what was it, $48,000?

Mr. **Tranakos**. It is our contention the $890 is more accurate. Our accountant has come up with a little more income and comes up with $1,200 in taxes, which is no real difference, substantial difference, far more than they are entitled to.

The main problem, as I see it here, is where the agent knew that there were expenses. He admitted on the witness stand in the criminal case that he knew that Snyder had to have some expenses for making the cabinets. Obviously he can't make them out of air.

He knew that and saw the checks, had access to them. He refused to consider them at all. That is what I consider to be the main abuse here, is when an agent knows and violates his duty as a public servant.

Mr. **Crane**. I thank you for testifying, Mr. Snyder, and again commend you for your courage and can only express the condolences of all of us for what your family has been through.

Mr. **Snyder**. Thank you.

Chairman **Rangel**. Mr. Duncan?

Mr. **Duncan**. I have no questions, thank you, Mr. Chairman.

Chairman **Rangel**. Thank you again, counsel, Mr. Snyder. We expect to be hearing from you.

Mr. **Tranakos**. I will get this material to the committee.

[The following was submitted for the record:]

April 26, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

Dear Mr. Chairman:

I am aware that I am under no obligation to discuss my dealings with the Internal Revenue Service, and that I am voluntarily testifying before the Committee on Ways and Means, Subcommittee on Oversight, in a public hearing. I am also aware that my statement and any information disclosed by me will be placed in the Committee hearing record, a published public document, and could be used in a court of law. Further, I am voluntarily disclosing such information included in my testimony to the Committee for the purpose of this hearing and for inclusion in the hearing record.

Taxpayer Name ______________________________

Social Security Number ______________________________

Address ______________________________

Signature ______________________________

Date ______________________________

April 26, 1982

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Chairman, Subcommittee on Oversight
Committee on Ways and Means
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I am aware that without this authorization my returns, return information, and taxpayer return information, as defined in Section 6103(b) of the Internal Revenue Code, are confidential and are protected by law under the Internal Revenue Code.

I authorize the Internal Revenue Service to disclose my returns, return information and taxpayer return information, as those terms are defined in Section 6103(b) of the Internal Revenue Code for ~~all~~ tax year~~s~~ 1971 to any Member of the Committee on Ways and Means, Subcommittee on Oversight, or to any member of the Subcommittee's staff or counsel, for use in preparation for the Subcommittee's April 26, 1982 public hearing on the Internal Revenue Service's administration of the tax laws, for use during the Subcommittee's public hearing, or use in preparation or inclusion in any report or public document prepared by the Subcommittee which pertains to the public hearing.

I also authorize the Members, staff and counsel of the Subcommittee, and the Internal Revenue Service, to disclose this information either during the public hearings or after the public hearings to any person and in any manner that the Members, staff and counsel of the Subcommittee, or the Internal Revenue Service, deem necessary to clarify the hearing record.

Taxpayer Name [illegible]

Social Security Number ____________

Address ____________

Signature ____________

Date ____________

ARTHUR P. TRÁNAKOS
ATTORNEY AT LAW
SUITE 809 STANDARD FEDERAL SAVINGS BUILDING
41 MARIETTA STREET, N.W.

ARTHUR P. TRANAKOS
BARRY L. ZIPPERMAN
ROBERT F. WEBB

ATLANTA, GEORGIA 30303
TELEPHONE 404-577-3430

May 11, 1982

COMMITTEE ON
RECEIVED
MAY 12 1982
WAYS AND MEANS

Mr. Charles B. Rangel, Chairman
Subcommittee on Oversight
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D. C. 20515

Re: Investigation into IRS Abuses

Dear Congressman Rangel:

On behalf of Dwight Snyder and millions of other taxpayers, I would like to thank you and your subcommittee for the opportunity to present evidence of taxpayer abuse with the view to introducing corrective measures.

During the testimony of April 26, 1982, before your subcommittee, Mr. Snyder testified regarding investigation into his 1971 income tax liability and the treatment he received from the Internal Revenue Service in connection therewith. As Mr. Snyder testified, he had been the subject of abuses in years prior to 1971. None of said abuses in any way ranked with that which he received in 1971. The following is a brief historical outline of the problems regarding the 1971 tax year.

A joint civil and criminal investigation was conducted by Andrew Rutkowski, Special Agent, Baltimore office, and Thomas P. Lyden, Revenue Agent, Cumberland office, into Mr. Snyder's 1971-72 tax returns. Special Agent Rutowski's report dated March 26, 1975, is attached hereto as Exhibit "A." The bank deposits reflected on Page 3 used to calculate income total $67,259.29. The expenses shown on Page 4 were based on the same bank accounts and total $50,867.03. With depreciation, taxes, and rental expenses totalling $7,059.35, the business expenses were $57,926.38. The resulting tax liability was $890.00.

The revenue agent assisted Mr. Rutkowski with the investigation, including carrying the bank records from the bank. The revenue agent, in preparing his report after the special agent's report, used the same $67,259.29 income derived from the bank deposits but did not give Mr. Snyder any business deductions from those same bank records. Special Agent Temple's explanation in his testimony during trial was that all the bank checks were not legible but failed to admit that most were. Also, the revenue agent reduced the standard deduction from $1,213.29 to $750.00 and incorrectly reduced the exemptions from $2,700.00 to $2,500.00. The resulting taxable income was $64,484.29, as opposed to $5,419.62, and the tax liability was $32,244.94, as opposed to $890.00. A copy of the 90-day letter containing the report of Revenue Agent Lyden and the evenlope in which it was mailed, but was not delivered to Mr. Snyder, is attached hereto as Exhibit "B."

Since a petition to the United States Tax Court was not filed, an assessment was made and a Notice of Account dated September 8, 1975, was sent to Mr. Snyder reflecting tax, interest, and negligence and deliquency penalties of $48,679.71, a copy of which is attached hereto as Exhibit "C." Mr. Snyder promptly, by letter dated September 11, 1975, responded expressing his dismay [illegible] receipt of said notice and demanding due process of law. A copy of said letter is attached hereto as Exhibit "D."

By letter dated October 31, 1975, F. Steinberg advised Mr. Snyder that he could file a Claim for refund, Form 843; a copy of said letter is attached hereto as Exhibit "E." In response to that letter, Mr. Snyder communicated with Mr. Steinberg by letter dated November 8, 1975, advising him of the error in the nature of the assessment which he had received; a copy of said letter is attached hereto as Exhibit "F." On November 10, 1975, Dwight Snyder filed a Claim for refund, Form 843, for 1971; a copy of said claim is attached hereto as Exhibit "G."

Further correspondence dated November 21, 1975, demanding payment of the unpaid account was received from Mr. Morrill, to which Mr. Snyder replied on November 22, 1975; a copy of same is attached hereto as Exhibit "H." Said letter not only refers to the previous correspondence denying liability but also refers to the Claim for refund, Form 843, filed without any action taken.

By letter of December 11, 1975, from F. Steinberg, Mr. Snyder was advised that the Internal Revenue Service was working on his 1971 tax account; a copy of said letter is attached hereto as Exhibit "I." The next day he received a letter dated December 12, 1975, Form 4839, advising him that the balance owed on his account was $49,695.23, a copy of which is attached hereto as Exhibit "J." Mr. Snyder responded to both letters on December 29, 1975, by again challenging the liability imposed; a copy of said letter is attached hereto as Exhibit "K."

By letter dated January 2, 1976, Form 4840, Mr. Snyder was given his final notice before seizure of $49,912.28, a copy of which is attached hereto as Exhibit "L." Mr. Snyder responded to the District Director, Mr. Portney, by letter dated January 11, 1976, a copy of which is attached hereto as Exhibit "M", that no liability was owed and requested action on his previous correspondence.

Thomas P. Lyden, Revenue Agent, by letter dated April 19, 1976, advised Mr. Snyder of a scheduled meeting regarding his claim, Form 843, a copy of which is attached hereto as Exhibit "N." On April 26, 1976, Mr. Snyder acknowledged receipt of said letter and asked to be given time to obtain an attorney; and on May 17, 1976, Mr. Snyder acknowledged receipt of Power of Attorney form and advised that he had contacted an attorney who would be in touch with Mr. Lyden; copies of said correspondence and forms are attached hereto as Exhibits "O" and "P." On May 17, 1976, Revenue Agent Lyden prepared a Report Transmittal, Form 4665, a copy of which is attached hereto as Exhibit "Q." This exhibit is not legible in places; however, I am sure the Internal Revenue Service will be able to furnish a more legible copy. The agent states on Page 1 of the report that the claim for abatement of income tax is specifically precluded by Internal Revenue Code §6404(b). Apparently, the offer of a conference was hollow.

In filing the Claim, Form 843, Mr. Snyder was merely following the instructions given to him by Mr.

Steinberg. It is equally curious why no one in the Service, in all the correspondence and with the numerous parties who participated in this affair, advised Mr. Snyder of the existence of the Problem Resolution Office and its functions or his right to seek redetermination of his liability based on the fact that he did not receive the notice. During all his meetings with the agents, Mr. Snyder insisted that his deductions were reflected in his checks, which the IRS had.

At various points during the investigation and collection effort, Mr. Snyder sought congressional help by corresponding with Senator Montoya and with Congressman Beall; a copy of Senator Montoya's letter of November 13, 1975, to Mr. Snyder is attached hereto as Exhibit "R".

From the witness stand in Baltimore in November 1981, Thomas P. Lyden, the revenue agent who worked the civil case, testified under oath that he knew that the checks reflecting expenses were there but that Mr. Rutkowski, the special agent, had them and that he had not turned them over to him and that he did not make a request for those checks to be turned over to him. This was an obvious gross dereliction of duty. There is no way to determine whether all of this activity was inter-related, but the direction of the various IRS agents was certainly in unison. Furthermore, Steven J. Mopsick, the attorney handling Mr. Snyder's 1972 Tax Court case, told Mr. Snyder that the IRS would harrass him until they broke him.

The Court Order to Search and Seize Assets was obtained without notice to Mr. Snyder and without his knowledge until after the raid when the magistrate released the information. A great deal of pressure was imposed by Special Agent Temple and other Internal Revenue agents on Mr. Snyder's friends and neighbors during the levy efforts. Those who were pressured were Jonas Yoder, Eli Yoder, Douglas Spaulding, and Vernard Ludwig.

On September 20, 1976, a levy was made on Mr. Snyder's account at the Terra Alta Bank, which obtained $37.62. No other payments were made until the seizure of February 21, 1980. During the February seizure, levy was made on all equipment and inventory held by Snyder and his business and money which he had in his residence, totalling approximately $17,186.92. The Service charged $3,062.56 for collection.

The government filed a lawsuit on September 21, 1981, to reduce the tax assessment to a judgment in the amount of $52,258.61 for 1971 and $14,859.94 for 1972. A copy of said suit is attached hereto as Exhibit "S." Said suit is still pending before the U. S. District Court of Maryland.

On February 21, 1980, the Internal Revenue Service with nine armed special agents, eight armed United States Marshals, two armed Maryland State Patrolmen, and numerous revenue officers and support personnel raided Dwight Snyder's residence and business to effect a collection of tax. The entrance on his residence was made by three armed personnel who barged in leading with their guns when the door was partially opened. In the shop the agents opened the front door and three armed men trained their weapons, including an M-16 automatic and a shotgun, on Dwight Snyder.

The Service's justification for use of the armed force against Mr. Snyder was based on the August 24, 1976, Assault or Threat of Assault Report, Form 4562, submitted by Robert L. Jennings, Revenue Officer, which contained numerous untrue statements but quotes Mr. Snyder as saying, "If anyone tries to seize my property, there will be trouble," and "If you take any illegal seizure action, I'll take whatever steps I need to." Neither of these statements could constitute a threat; as a matter of fact, the agent in Part A, Line 2, calls it a warning. Clearly, the warning was that the action must be legal, a repeated invocation of Mr. Snyder. Certainly there was no threat of physical harm to anyone. There is a great dispute as to how the posse question came up. Mr. Snyder says that Mr. Jennings asked him what the posse was. The so-called "posse" never did exist in western Maryland and certainly did not create any threat.

If the Service was really afraid of what Mr. Snyder would do, why did they not contact the nine-member Sheriff's Department or the six-member City of Oakland Police Department?

The agents admitted, as did Temple during the hearing, that on numerous occasions there had never been any violence in the community when Rutkowski, Jennings, Lyden, Temple, and others had visited Mr. Snyder or his neighbors, which must have been at least 100 times over the years. The Service is attempting to justify its actions by reciting the snowplow incident and the statement that "Someone's going to get shot," both of which occurred on the day of the raid and subsequent thereto. The person who made the aforesaid statement was referring to the fact that the government agents with so many rifles and pistols were going to hurt someone, not that the agents might get hurt.

During the subcommittee hearing, Mr. Temple kept referring to the fact that an M-16 is a semi-automatic weapon when he well knew that it is an automatic weapon, as was testified to on at least ten occasions during the November 1981 trial. All the weapons in Mr. Snyder's home were hunting rifles and hunting shotguns, which were not kept loaded. The Internal Revenue Service created a situation of extreme danger. The recitation as to what actually happened should be determined by the Committee from those present, Mr. and Mrs. Snyder and Bob Burrows.

The response by the Internal Revenue Service was not made by the Commissioner, perhaps because he would like to disavow any relationship with the raid and its preceding events, perhaps also because he was not the commissioner at the time and did not want to be blamed for defending a defenseless act. Temple testified that the agents attempted to work with the taxpayer. If this is so, why could they not read the checks which Rutkowski and Lyden had taken and Rutkowski was able to read? Why did they not advise him of the Problem Resolution Office? Why did they not assist him, so that he would understand what additional information was being sought? At the time of the raid, it was very clear that Snyder's liability had been overstated, because Temple and Sparks had both seem Rutkowski's report and had the complete file on the complaints which Mr. Snyder had made regarding his liability. No one heeded his efforts to have this matter cleared up.

Additional abuses occurred during the investigation of Mr. Snyder in the form of an electronic surveillance, which was not authorized by any Court order and was effected by means of two trucks with electronic dishes for receiving conversation. At that time Special Agent Temple was in the house talking to Mr. Snyder. It is not known on how many other occasions this device was used. On that particular occasion, Snyder was able to catch the Internal Revenue Service "red nanded", because a neighbor called him and said that there were two trucks parked across the street from Snyder's house in the school driveway. Mr. Snyder went across the street to the school driveway, and one of the trucks was not able to be started. Mr. Snyder asked the people who they were, and they said they worked for Hecht Department Store. He helped them start the truck, so they could leave. It was determined that they were Internal Revenue agents when a tape of said conversation was produced in October 1981.

The consequence of the Internal Revenue Service liens was that Mr. Snyder lost his property, as it was later sold for ad valorem taxes. In addition to financial problems created by the raid, psychological scars have been left on the entire family, especially nine-year old Jason, who will not sleep alone, and usually sleeps on the floor of either his sisters' or his parents' bedroom.

Mr. Snyder and I would appreciate the opportunity to respond to the Internal Revenue Service's additional information submitted to the subcommittee.

Yours very truly,

Arthur P. Tranakos

APT/bh

Attachments "A" - "S"

MAR 26 1975 I:03 AR

District Director of Internal Revenue
Attn: Chief, Intelligence Division
Baltimore, Maryland

In Re: SNYDER, JAMES DWIGHT
Route 2, Box 113
Oakland, Maryland 21550
SSN: 220-30-8543
52740002E
FINAL

Representation: None

This report relates to JAMES DWIGHT SNYDER's alleged willful failure to file a federal individual income tax return for 1971 and 1972. SNYDER is self-employed as the owner-operator of SNYDER'S CABINET SHOP, Oakland, Maryland.

BASIS FOR INVESTIGATION

This case was intitiated as the result of SNYDER's sending to the Philadelphia Service Center on April 15, 1973, a 1972 Form 1040 which showed only the taxpayer's name, address, occupation and filing status. The "return" was signed by SNYDER and his wife; however, the jurat was scratched out.

The purported "return" of SNYDER did not show information with respect to SNYDER's income and deductions which he was required to report under the Internal Revenue Code, Section 6011(a). Since this return did not meet the informational requirements set out in the Internal Revenue Code, this Form 1040 was not considered a valid tax return.

With this Form 1040, SNYDER submitted a number of "exhibits" which made claim that the monetary system and income tax laws of the United States are unconstitutional.

Records at the Philadelphia Service Center fail to disclose any returns being filed by SNYDER for 1971.

EXTENT AND RESULTS OF INVESTIGATION

The investigation disclosed that SNYDER has affiliated himself with an alleged tax protestors group in Oakland, Maryland.

When summonses were issued during June and July 1973 to the GARRETT NATIONAL BANK OF OAKLAND and the BANK OF TERRA ALTA, Terra Alta, West Virginia, SNYDER and others filed a petition with the Federal District Court at Elkins, West Virginia, demanding an injunction prohibiting (1) the Internal Revenue Service from obtaining bank records and (2) the banks from producing records to the Internal Revenue Service. Although this petition was declined by the Federal Judge in Elkins, West Virginia, the Judge did not technically order the banks to comply.

While the GARRETT NATIONAL BANK OF OAKLAND did produce copies of bank statements and business expense checks written on SNYDER's account, the Terra Alta bank was uncooperative.

SNYDER and others then filed an appeal with the Fourth Circuit Court of Appeals in Richmond, Virginia. At the same time the government filed a petition with the Federal District Court at Elkins, West Virginia, requesting a court order for compliance with the summons by the Terra Alta bank. However, since the Court of Appeals had not ruled upon the injunction, the Federal District Court would not rule on the enforcement of the summons on the Terra Alta bank. This held up the situation for approximately fourteen months.

While the aforementioned legal action was pending, the State of Maryland Sales Tax Division was contacted and Monthly Sales Tax Reports were obtained. These covered the entire year of 1971 and the first four months of 1972, at which time SNYDER stopped reporting gross receipts on the returns. For 1971, the gross sales receipts listed on the Maryland Sales Tax Report were in approximately the same amount as SNYDER's deposits.

Contact was made with NORMA HARSH, a bookkeeper for SNYDER who had prepared his federal income tax returns through 1970. HARSH stated that after the filing of that return (1970) SNYDER became a member of a tax protestors group and notified her that he would no longer be filing returns. She stated that after 1970 she kept no records for SNYDER other than to prepare his monthly Maryland Sales Tax Return. She related that during 1972 she was told by SNYDER that for sales tax purposes she was to include only those sales subject to the four percent Maryland Sales Tax.

Also contacted was DANIEL LEDDEN, a former SNYDER employee, who disclosed the names of some of SNYDER's customers and some background information.

On November 30, 1973, the GARRETT NATIONAL BANK presented the Internal Revenue Service with a bill ($699.60) for the cost of labor and materials used in producing a portion of the information requested in the summons. A reply was made citing that no precedent could be found in any court ruling whereby the government was obliged to reimburse a bank for these costs when the Service was willing to perform the necessary work. An additional bill for $808.10 was received on May 2, 1974. A later bill for $619.09 was received on March 4, 1975. The bank's next course of action in this regard is unknown.

On July 29, 1974, the United States Court of Appeals affirmed the District Court decision. Thereafter, on August 6, 1974, an order was initiated ordering the Terra Alta bank to show cause why it should not be compelled to testify and produce the records demanded in the Internal Revenue Service summons.

On September 6, 1974, at Elkins, West Virginia, a hearing was held and it was ordered that the Terra Alta bank produce the records demanded in the summons.

On September 16, and 17, 1974, the records were obtained from the Terra Alta bank.

The records of the Terra Alta bank and the bank statements and checks written on SNYDER's account with the GARRETT NATIONAL BANK disclosed the following information:

Deposits	1971	1972
GARRETT NATIONAL BANK		
Checking Account No. 101-07199	$ 65,093.87	$ 71,888.00
Checking Account No. 101-05110	2,165.42	2,940.75
BANK OF TERRA ALTA		
Checking Account No. 20-1048-8	-0-	15,422.26
Checking Account No. 10-2528-7	-0-	790.47
Savings Account No. 2703	-0-	10,000.00
Total Deposits	$ 67,259.29	$101,041.48
Less: Transfers	-0-	(A) 15,000.00
Net Deposits	$ 67,259.29	$ 86,041.48

A - SNYDER withdrew $15,000.00 from the GARRETT NATIONAL BANK on November 29, 1972 and on the same date opened a $10,000.00 savings account and a $5,000.00 checking account with the Terra Alta bank.

Business Expenses (1)	1971	1972
GARRETT NATIONAL BANK	$ 50,867.03	$ 50,664.18
BANK OF TERRA ALTA	-0-	4,960.48
Depreciation – Business	4,000.00	4,000.00
Taxes	900.00	900.00
Rental Expense (Depreciation)	2,159.35	2,159.35
Total Business Expenses	57,926.38	62,648.01

(1) Check expenses actually taken from bank records.

Using the aforementioned information, the following computation is based only on a premise that all of the net deposits can be documented as income;

	1971	1972
Total Deposits	$ 67,259.29	$101,041.48
Less: Transfers	-0-	15,000.00
Net Deposits	67,259.29	86,041.48
Less: Expenses	57,926.38	62,684.01
Adjusted Gross Income	9,332.91	23,357.47
Less: Standard Deduction	1,213.29	2.000.00
	8,119.62	21,357.47
Less: Exemptions (4)	2,700.00	2,700.00
Taxable Income	5,419.62 (b)	18,657.47
Tax	890.00	4,004.00 (c)

(b) Need $6,000.00 taxable income for $1,000.00 tax liability.
(c) Must document 85.3% of net deposits as income ($73,384.01) to have a $1,000.00 tax liability.

On September 17, 1974, the GARRETT NATIONAL BANK was advised that they were to produce copies of SNYDER's deposited checks. (This was necessary in order that a letter canvass of SNYDER's customers could be initiated.) Sporadically, over a five month period, the bank partially supplied the aforementioned documentation.

During January and February 1975, a letter canvass of SNYDER's customers was initiated. Inasmuch as the response to the letter canvass was nominal, a telephone canvass of non-replying customers was initiated. The non-replying customers contacted indicated they would search their records and reply to the information requested in the letter canvass.

The results to date of the canvass are as follows;

	1971	1972
Documented Receipts	$ 33,755.23	$ 39,089.66
Canvass Letters Sent	210	309
Canvass Letters Undeliverable	18 (1)	51 (2)
Number of Customers Contacted	192	258
Number of Customer Replies	116	118
Customer Replies – negative (3)	3,408.69	2,849.14
Total Amount of Deposits yet to be identified	$ 30,095.37	$ 44,102.68

(1) Represents approximately $2,000
(2) Represents approximately $5,000
(3) Customers deny transactions with taxpayer – we have their checks

While the vast majority of SNYDER's commercial customers have replied, many individual customers have failed to reply.

In order to possibly identify additional customers, a canvass of banks in Garrett County, Allegany County, Southwestern Pennsylvania and West Virginia was conducted. The banks indicated that they had not conducted any business with SNYDER.

The Supervisor of Assessment of Garrett County, who had provided information in the past, was again contacted regarding any further information as to where SNYDER conducted any banking transactions. He could not provide any information.

Conclusions and Recommendations

The investigation for 1971 and 1972 failed to disclose proveable taxable income and tax sufficient in amounts to meet current criteria. Failing this, we do not have a case with a reasonable probability of conviction.

It must be realized the strong possibility exists that even after additional follow up action (i.e. contact with customers who did not reply) the optimum tax liability as computed on the basis of favorable replies from all customers in the earlier summary, may be reduced.

Also some note should be made of the possible adverse effect that a continued investigation (with negative results) could have in making the kind of publicity that this particular tax protestor group obviously desires.

The proposed action recommended herein has been discussed with the Audit Group Manager involved in this joint investigation. He offered no objection.

In view of the above it is recommended that this case be closed in this office and that it be forwarded to the Audit Division for any action they may deem appropriate.

Andrew Rutkowski

Andrew Rutkowski
Special Agent

/s/ Martin Schwartz

Reviewed: Martin Schwartz
Group Manager

APPROVED:

/s/ Robert L. Browne

Robert L. Browne
Chief, Intelligence Division
Baltimore District Office

Internal Revenue Service
District Director

Department of the Treasury

Date: APR 14 1975

Tax Year Ended and Deficiency: Penalty:
12/31/71 - $32,244.94-$1612.25

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Person to Contact: Mr. J.L. Zimmerer
Au:CS:SN:JLZ:Was

Contact Telephone Number:
301-962-3093

Dear Mr. Snyder

This letter is a NOTICE OF DEFICIENCY—as required by law—that we have determined the income tax deficiencies shown above. We regret we have been unable to reach a satisfactory agreement in your case. The enclosed statement shows how the deficiencies were computed.

If you do not intend to contest this determination in the United States Tax Court, please sign and return the enclosed waiver form. This will permit an early assessment of the deficiencies and limit the accumulation of interest. The enclosed self-addressed envelope is for your convenience.

If you decide not to sign and return the waiver, the law requires that after 90 days from the date of mailing this letter (150 days if this letter is addressed to you outside the United States) we assess and bill you for the deficiencies. However, if within the time stated you contest this determination by filing a petition with the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, we may not assess any deficiencies and bill you until after the Tax Court has decided your case. You can obtain a copy of the rules for filing a petition by writing to the Clerk of the Tax Court at the Court's Washington, D.C. address stated above.

If you intend to file a petition with the United States Tax Court, you must do so within the time stated above (90 or 150 days, as the case may be); this period is fixed by law, and the Court cannot consider your case if your petition is filed late.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Donald C. Alexander
Commissioner
By
Gerald H. Portney

District Director

Enclosures:
Statement
Waiver
Envelope

31 Hopkins Plaza, Baltimore, Md. 21201

EXHIBIT "B"

Form L-21 (Rev. 11-74)

Form 4089 (Rev. November 1974)	Department of the Treasury - Internal Revenue Service **Statutory Notice Statement - Waiver**	Symbols Au:CS:SN:JLZ:Was

Name and Address of Taxpayer(s)

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Kind of Tax Income	☐ Copy to Authorized Representative

Taxable Year Ended	Deficiency (Increase in Tax and Penalties)	Addition to Tax Section 6653(a)	TOTAL
December 31, 1971	$32,244.94	$1,612.25	$33,857.19

It is determined that all or part of the underpayment of tax required to be shown on your return for the taxable year ended December 31, 1971 is due to negligence or intentional disregard of rules and regulations. Consequently, the 5 per centum addition to the tax provided by section 6653(a) of the Internal Revenue Code is asserted.

See the attached explanation for the above deficiencies

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest provided by law.

Signature			
	▶		Date
	▶		Date
	By ▶	Title	Date

Note:

If you consent to the assessment of the amounts shown in this waiver, please sign and return the form in order to limit the accrual of interest and expedite our bill to you. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

If you later file a claim and the Internal Revenue Service disallows it, you may file suit for refund in a district court or in the United States Court of Claims, but you may not file a petition with the United States Tax Court.

Who Must Sign

If you filed jointly, both you and your spouse must sign. If the taxpayer is a corporation this waiver must be signed with the corporate name followed by the signatures and titles of the officers authorized to sign.

Your attorney or agent may sign this waiver provided his action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice of Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign one copy and return it; keep the other copy for your records.

Form 5278 January 1975	Department of the Treasury - Internal Revenue Service **Statement - Income Tax Changes**	Return Form No. 1040	Schedule No. 1

Name of Taxpayer(s)

J. Dwight Snyder

☒ Notice of Deficiency ☐ Other *(specify)*

☐ Settlement Computation

	Tax Years Ended		
	12/31/71		
1. Adjustments to income			
a. Unreported income	$67,259.29		
b. Standard deduction	(750.00)		
c. Exemptions	(2,500.00)		
d.			
e.			
f.			
g.			
2. Total adjustments	$64,484.29		
3a. ☒ Taxable income ☐ Adjusted gross income b. As shown in: ☐ Preliminary letter dated ________ ☐ Notice of deficiency dated ________ ☒ Return as filed	-0-		
4. ☒ Taxable income as revised ☐ Adjusted gross income as revised	64,484.29		
5. Tax	31,659.94		
6. Alternative tax if applicable *(from page ________)*			
7. Tax surcharge			
8. Corrected tax liability *(Lesser of line 5 or 6, plus line 7)*	31,659.94		
9. Less credits *(specify)* a.			
b.			
c.			
10. Balance *(line 8 less amounts on lines 9a through 9c)*	31,659.94		
11. Plus a. Tax from recomputing prior year investment credit			
b. Self-employment tax	585.00		
c.			
12. Total corrected income tax liability *(line 10 plus amounts on lines 11a through 11c)*	$32,244.94		
13. Total tax shown on return or as previously adjusted	-0-		
14. Statutory deficiency ~~or overassessment~~ *(difference between lines 12 and 13)*	$32,244.94		

15. Additions to the tax *(listed below)*

Section 6653(a) (5% of $32,244.94)	$1,612.25

J. Dwight Snyder

Statement Schedule 2

Explanation of Adjustments

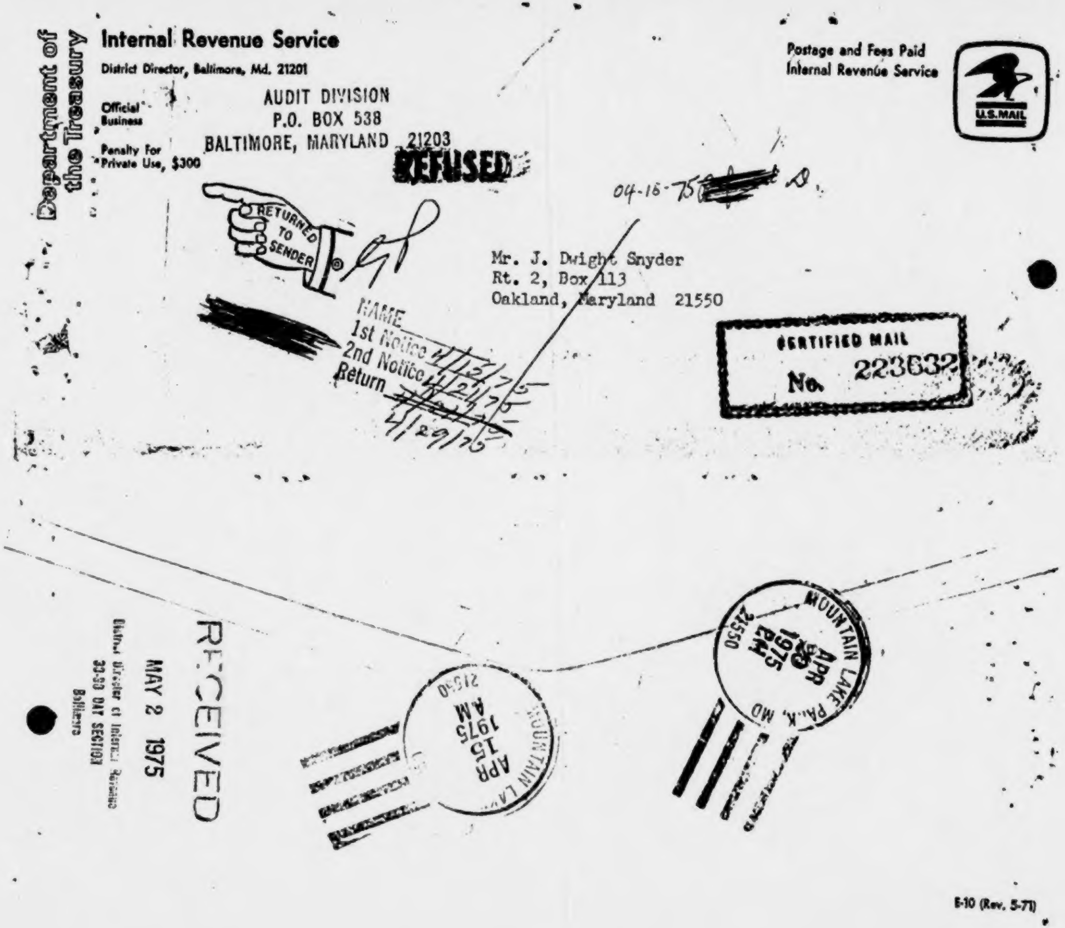
(a) It is determined that you had unreported income in 1971 in the amount of $67,259.29 representing unexplained deposits made to accounts at the Garret National Bank.

(b) In computing your tax you are allowed a standard deduction of $750.00, the maximum allowable on the separate return of a married taxpayer.

(c) In computing your tax you are allowed three exemptions, one each for yourself, your wife and your daughter.

Computation of Self-Employment Tax

Maximum amount subject to self-employment tax	$7,800.00
Self-employment tax as corrected (7.5% of $7,800.00)	$585.00



Department of the Treasury

Internal Revenue Service

District Director, Baltimore, Md. 21201

Official Business

Penalty For Private Use, $300

AUDIT DIVISION
P.O. BOX 538
BALTIMORE, MARYLAND 21203

Postage and Fees Paid
Internal Revenue Service

U.S. MAIL

REFUSED

04-16-75 [redacted] D.

RETURNED TO SENDER

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

CERTIFIED MAIL
No. 223632

[redacted]

NAME
1st Notice 4/12/75
2nd Notice 4/24/75
Return 4/29/75

MOUNTAIN LAKE PARK, MD
APR 29 1975 PM
21550

MOUNTAIN LAKE
APR 15 1975 AM
21550

RECEIVED
MAY 2 1975
District Director of Internal Revenue
30-90 DAY SECTION
Baltimore

E-10 (Rev. 5-71)

Internal Revenue Service
District Director

Department of the Treasury

Date: [illegible]

Tax Year Ended and Deficiency: Penalty:
12/31/71 - $32,244.94-$1612.25

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Person to Contact: Mr. J.L. Zimmerer
Au:CS:SN:JLZ:Was

Contact Telephone Number:
301-962-3093

Dear Mr. Snyder

This letter is a NOTICE OF DEFICIENCY--as required by law--that we have determined the income tax deficiencies shown above. We regret we have been unable to reach a satisfactory agreement in your case. The enclosed statement shows how the deficiencies were computed.

If you do not intend to contest this determination in the United States Tax Court, please sign and return the enclosed waiver form. This will permit an early assessment of the deficiencies and limit the accumulation of interest. The enclosed self-addressed envelope is for your convenience.

If you decide not to sign and return the waiver, the law requires that after 90 days from the date of mailing this letter (150 days if this letter is addressed to you outside the United States) we assess and bill you for the deficiencies. However, if within the time stated you contest this determination by filing a petition with the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, we may not assess any deficiencies and bill you until after the Tax Court has decided your case. You can obtain a copy of the rules for filing a petition by writing to the Clerk of the Tax Court at the Court's Washington, D.C. address stated above.

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If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Donald C. Alexander
Commissioner
By

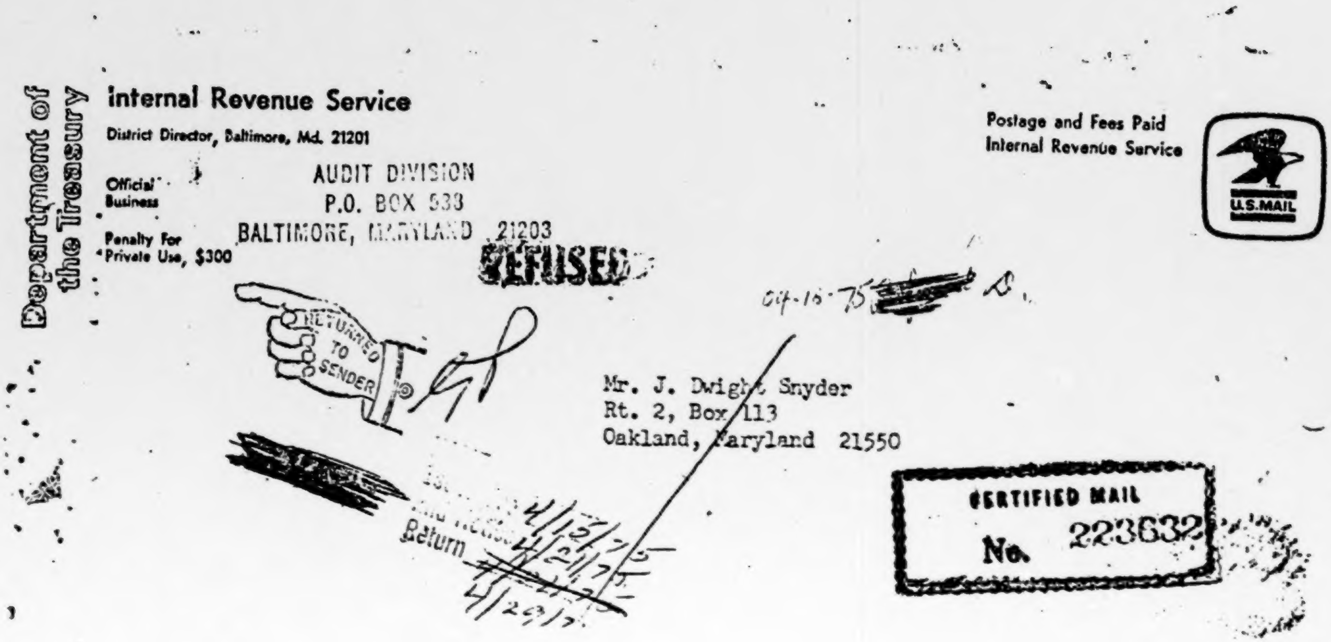
District Director

Enclosures:
Statement
Waiver
Envelope

EXHIBIT "B"

31 Hopkins Plaza, Baltimore, Md. 21201

Form L-21 (Rev. 11-74)



Department of
the Treasury

Internal Revenue Service
District Director, Baltimore, Md. 21201

Official Business

Penalty For Private Use, $300

AUDIT DIVISION
P.O. BOX 533
BALTIMORE, MARYLAND 21203

Postage and Fees Paid
Internal Revenue Service

REFUSED

RETURNED TO SENDER

04-16-75

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

[redacted]

Return

4/12/75
~~4/21/75~~
4/29/75

CERTIFIED MAIL
No. 223632

Form 4089 (Rev. November 1974)	Department of the Treasury - Internal Revenue Service **Statutory Notice Statement - Waiver**	Symbols Au:CS:SN:JLZ:Was

Name and Address of Taxpayer(s)

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Kind of Tax Income	☐ Copy to Authorized Representative

Taxable Year Ended	Deficiency (Increase in Tax and Penalties)	Addition to Tax Section 6653(a)	TOTAL
December 31, 1971	$32,244.94	$1,612.25	$33,857.19

It is determined that all or part of the underpayment of tax required to be shown on your return for the taxable year ended December 31, 1971 is due to negligence or intentional disregard of rules and regulations. Consequently, the 5 per centum addition to the tax provided by section 6653(a) of the Internal Revenue Code is asserted.

See the attached explanation for the above deficiencies

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest provided by law.

Signature		
▶		Date
▶		Date
By ▶	Title	Date

Note:

If you consent to the assessment of the amounts shown in this waiver, please sign and return the form in order to limit the accrual of interest and expedite our bill to you. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

If you later file a claim and the Internal Revenue Service disallows it, you may file suit for refund in a district court or in the United States Court of Claims, but you may not file a petition with the United States Tax Court.

Who Must Sign

If you filed jointly, both you and your spouse must sign. If the taxpayer is a corporation this waiver must be signed with the corporate name followed by the signatures and titles of the officers authorized to sign.

Your attorney or agent may sign this waiver provided his action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice of Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign one copy and return it; keep the other copy for your records.

Form 4089 (Rev. 11-74)

Form 4089 (Rev. November 1974)	Statutory Notice Statement - Waiver	Au:CS:SH:JLZ:Was

Name and Address of Taxpayer(s)

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Kind of Tax Income	☐ Copy to Authorized Representative

Taxable Year Ended	Deficiency (Increase in Tax and Penalties)	Addition to Tax Section 6653(a)	TOTAL
December 31, 1971	$32,244.94	$1,612.25	$33,857.19

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Signature		
▶		Date
▶		Date
By ▶	Title	Date

Note:

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If you agree, please sign one copy and return it; keep the other copy for your records.

Form 5278 January 1975	Department of the Treasury - Internal Revenue Service **Statement - Income Tax Changes**	Return Form No. 1040	Schedule No. 1

Name of Taxpayer(s) J. Dwight Snyder	☒ Notice of Deficiency ☐ Settlement Computation	☐ Other *(specify)*	
	Tax Years Ended		
1. Adjustments to income	12/31/71		
a. Unreported income	$67,259.29		
b. Standard deduction	(750.00)		
c. Exemptions	(2,500.00)		
d.			
e.			
f.			
g.			
2. Total adjustments	$64,484.29		
3a. ☒ Taxable income ☐ Adjusted gross income b. As shown in: ☐ Preliminary letter dated ________ ☐ Notice of deficiency dated ________ ☒ Return as filed	-0-		
4. ☒ Taxable income as revised ☐ Adjusted gross income as revised	64,484.29		
5. Tax	31,659.94		
6. Alternative tax if applicable *(from page ________)*			
7. Tax surcharge			
8. Corrected tax liability *(Lesser of line 5 or 6, plus line 7)*	31,659.94		
9. Less credits *(specify)* a.			
b.			
c.			
10. Balance *(line 8 less amounts on lines 9a through 9c)*	31,659.94		
11. Plus a. Tax from recomputing prior year investment credit			
b. Self employment tax	585.00		
c.			
12. Total corrected income tax liability *(line 10 plus amounts on lines 11a through 11c)*	$32,244.94		
13. Total tax shown on return or as previously adjusted	-0-		
14. Statutory deficiency XXXXXXXXXXXX *(difference between lines 12 and 13)*	$32,244.94		

15. Additions to the tax *(listed below)*

Section 6653(a) (5% of $32,244.94)	$1,612.25

J. Dwight Snyder — Statement Schedule 2

Explanation of Adjustments

(a) It is determined that you had unreported income in 1971 in the amount of $67,259.29 representing unexplained deposits made to accounts at the Garret National Bank.

(b) In computing your tax you are allowed a standard deduction of $750.00, the maximum allowable on the separate return of a married taxpayer.

(c) In computing your tax you are allowed three exemptions, one each for yourself, your wife and your daughter.

Computation of Self-Employment Tax

Maximum amount subject to self-employment tax	$7,800.00
Self-employment tax as corrected (7.5% of $7,800.00)	$585.00

Department of the Treasury
Interna[illegible]venue
Service Center
P.O. BOX 57
CORNWELLS HEIGHTS, PA. 19020

Date of This Notice
SEP. 8, 1975
Identifying Number
220-30-8543
Document Locator Number
52247-229-00501-5
Form Number Tax Period
1040 DEC. 31, 1971

1

5201 22

If you inquire about your account, please refer to these numbers or attach a copy of this notice.

ZV 220308543 30 7112 670

J DWIGHT SNYDER
RT 2 BOX 113
OAKLAND MD 21550

STATEMENT OF ADJUSTMENT TO YOUR ACCOUNT

BALANCE DUE ON ACCOUNT BEFORE ADJUSTMENT			$.00
	ADJUSTMENT COMPUTATION		
TAX- INCREASE		32,244.94	
PENALTY-	SEE EXPLANATION 01	8,061.24	
	SEE EXPLANATION 06	1,612.25	
INTEREST CHARGE		6,761.28	
NET ADJUSTMENT	CHARGE		48,679.71
BALANCE DUE			$48,679.71

RECEIVED
SEP 23 1975
PSC

Under penalties of perjury, I hereby declare that the sums represented on this form are accurate, and have been determined to be presently due and owing.

EXHIBIT "C"

G C

16,19

¹ The code numbers at the left identify the statements on the back of this notice that provide further explanations and instructions.

Rt. 2 Box 113
Oakland, Maryland, 21550

OAKLAND
SEP 18 '75
MD.
U.S. POSTAGE
.55
206302
METER

CERTIFIED
No. 165543
MAIL

INTERNAL REVENUE SERVICE

P.O. BOX 57

CORNWELLS HEIGHTS, PENNSYLVANIA 19020

RETURN RECEIPT
REQUESTED

CERTIFIED MAIL NUMBER 165543

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pennsylvania 19020

September 11, 1975

Greetings,

Received the attached notice today, and I'm puzzled as to its meaning. Obviously, it doesn't pertain to me as the amount represented is far above any amount that I could be responsible for. As such it has probably been miss-sent. In the event, unlikely though it is, that this document was intended for my action, I have added a statement to it that I would appreciate your consideration of. If I cannot have a signature on this form, I'm sure that you must agree that the document is worthless! If any possibility exists that the form represents an attempt to obtain a collection from me, then I must assure you that I will demand due process of law, including a trial by jury.

Your immediate attention to this matter is necessary!

Sincerely,

J. Dwight Snyder

J. Dwight Snyder
Rt. 2 Box 113
Oakland, Maryland 21550

cc:

ACRPA

Sen. Montoya

EXHIBIT "D"

Address any reply to: 11601 Roosevelt Blvd., Philadelphia, Pa. 19155
Department of the Treasury

Internal Revenue
Service Center
Mid-Atlantic Region

NOV 21 [illegible]
PHILADELPHIA
SERVICE CENTER
RECEIVED

Date	In reply refer to
October 31, 1975	C304- 28660991

th

J. Dwight Snyder
R 2, Box 113
Oakland, MD 21550

SSN 220-30-8543

Dear Mr Snyder:

We wrote you earlier explaining the changes and your appeal rights before assessment of the additional tax. As we had no record of your filing an appeal, we sent a statutory notice allowing you 90 days to file a petition with the United States Tax Court. After the 90-day period expired, the tax was assessed.

This tax is now due and the law requires that it be paid. If you do not agree with the adjustment and want your case to be given further consideration after you pay the tax, you may file the enclosed Form 843 to claim a refund. If you do so, please complete all appropriate items on the form and explain in detail why you believe the refund should be allowed. We have enclosed a self-addressed envelope for your convenience.

Sincerely yours,

F. Steinberg
Chief, Taxpayer Assistance Section

Enclosures:
Form 843
Envelope

October 31, 1975 C304- 28660991

th

J, Dwight Snyder
R 2, Box 113
Oakland, MD 21550

SSN: 220-30-8543

Dear Mr. Snyder:

We wrote you earlier explaining the changes and your appeal rights before assessment of the additional tax. As we had no record of your filing an appeal, we sent a statutory notice allowing you 90 days to file a petition with the United States Tax Court. After the 90-day period expired, the tax was assessed.

This tax is now due and the law requires that it be paid. If you do not agree with the adjustment and want your case to be given further consideration after you pay the tax, you may file the enclosed Form 843 to claim a refund. If you do so, please complete all appropriate items on the form and explain in detail why you believe the refund should be allowed. We have enclosed a self-addressed envelope for your convenience.

Sincerely yours,

F. Steinberg
Chief, Taxpayer Assistance Section

Enclosures:
Form 843
Envelope

EXHIBIT "E"

nd, Md. 21550

RETURN RECEIPT REQUESTED

Internal Revenue Servic
11601 Roosevelt Blvd.
Philadelphia, Pennsylva
19.

CERTIFIED
No. 224833
MAIL

RETURN RECEIPT REQUESTED

F. Steinberg

Nov 8, 1975

F. Steinberg
Internal Revenue Service Center
11601 Roosevelt Boulevard
Philadelphia, Pennsylvania 19155

Greetings;

Inre; your letter dated October 31, 1975, (copy attached): In the first paragraph of said letter, there appears the following error: "We wrote you earlier explaining the changes and your appeal rights before assessment of the additional tax."

This has not been done. Had I received said letter, I would have hastened to take proper steps to implement the appeal procedures mentioned in this letter.. The last correspondence received from you is dated September 5, 1975. An answer from you is presently being awaited to the many issues raised therein.

This most recent letter from your office raises some very serious questions. First the law requires that I receive notice of a deficiency.

SECTION 6212 NOTICE OF DEFICIENCY

> (a) (as ammended by Sec. 89 (b), Technical Amendments Act of 1958, P.L. 85-866, 72 Stat. 1606, and Sec. 101 (j) (40) Tax Reform Act of 1969, IN GENERAL- If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A or B of Chapter 42, he is authorised to send notice of such deficiency to the taxpayer by certified mail or registered mail.

In the reading of this statute I can find no exceptions to its clear command. That means that said deficiency cannot be imposed upon me until this procedural error has been corrected.

The second paragraph of this letter states; "This tax is now due and the law requires that it be paid." Were this portion of your letter true, then it becomes clear that we are involved not with a system of orderly taxation, but rather we are involved with a system of confiscation. In our system of Government confiscatory taxation is expressly prohibited by the 4th Amendment to our Constitution. This Fourth Amendment states in part;

4TH AMENDMENT, U.S. CONSTITUTION

" The right of the people to be secure in their persons, houses papers, and effects, agaist unreasonable searches and seizures shall not be violated;......"

There are no exceptions to this clear mandate! There were none contemplated. In Boyd -vs- U.S. this principle was furthered with the following language;

BOYD -vs- U.S. 116 U.S. 616; 29 L. Ed. 746, 6 S.Ct. Rep. 524: The well known historical purpose of the 4th Amendment, directed agaist general warrants and writs of assistance, was to prevent the use of governmental force to search a mans house, his person, his papers, and his effects, and to prevent their seizure against his will. This phase of the mis-use of governmental power of compulsion is the emphasis of the opinion of the court in the Boyd case."

Clearly then, the second paragraph of your letter is in error. It (second paragraph) goes on to say "If you do not agree with the adjustment and want your case to be given further consideration after you pay the tax, you may file the enclosed Form 843 to claim a refund." This sentence exemplifies a total disregard of my Constitutional Guarantees. Reduced to its simpler meaning it is simply saying, "Give us more than you have earned, then sue us for its return fully describing why it is that you want it returned, and then maybe we'll give you some consideration. " The basis for this type of illegal demand can best be found in the abolished star chamber proceedings. These courts were expressly founded to enforce such arbitrary proceedings as the then legal Courts were unable or unwilling to. In Blacks Law Distionary:"A court which originally had jurisdiction in cases where the ordinary course of justice was so much obstructed by one party, through writs, combination of maintenance, or overawing influence that no inferior court would find its process obeyed." A better description of

this case will never be found. Have Internal Revenue Service Statutes superceded our age-old laws including the Constitution of the United States of America? It would appear that any statute which states "Pay more than you earn and then sue for its return " clearly indicates that a branch of my government now operates my Government. Such an occurrence as that is totally impossible in our Constitutional Republic. The abundance of law expressly forbids it. One of the many examples of such impossibility can be found in:

> OLMSTEAD -vs- UNITED STATES 277 U.S. at 483;
>
> ....and if this court should permit the government by means of its officers' crimes to effect its purpose of punishing the defendants, there would seem to be present all the elements of a ratification. If so, the government itself would become a lawbreaker."

and it further expounds on this principle at 484;

> ....a defense may be waived. It is waived when not pleaded. But the objection that the plaintiff comes with unclean hands will be taken by the court itself. It will be taken despite the wish to the contrary of all the parties to the litigation. The court protects itself. Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration

of the criminal law the end justifies the means--to declare that the government may commit crimes in order to secure the conviction of a private criminal---would bring terrible retribution. Against that pernicious doctrine this court should resoluteley set its face.

Thus it becomes clear that in this situation the government has chosen to act outside of its constitutional mandate, and as such this shall not be permitted.. In light of the past experiences of this letter writer with the Internal Revenue Service, it now becomes apparent that I must excercise my Constitutional Responsibility. In the past The Internal Revenue Service has;

(a) refused to return $500.00 in Social Security Taxes illegally collected.

(b) Kept records of my business for six months, during audit, then, the agent informed me that I owed an additional tax for merchandise that I allegedly converted to my personal use. I offered proof that said tax had been paid, I even volunteered the records in my possession for proof positive. The agent then became adamant, and informed me that this tax, regardless of whether I could prove that it had been paid or not, had to be paid again, or else my property would be seized!

My question now is this, can I conciously permit this most recent outrage to continue, or is it time we convene a jury to successfully determine these issues at hand? If I fail to excercise my responsibility at this point, where will it stop? Will the next issue be that property will be illegally seized and I be required to sue for it back? I certainly believe each incident gets worse. No, this time I must insist that your office obey our Constitution! Nothing less will satisfy this present issue.

Our Government is a Constitutional one, of, by and for the people. I am sending a copy of this letter to Senator Montoyas' Subcommittee in the hopes that such abuses of authority can be changed by proper legislation, so that in the future generation, Americans will not have to further tolerate such conduct from the very Government they are required to financially support. I believe in a system of FAIR taxation, one that writes confiscation out of the laws.

If your office should decide to answer this letter, fine. If your office should decide to ignore this letter, then I must insist that a trial by jury begin to decide this most vital issue. The sooner the better.

Sincerely,

J. Dwight Snyder

J. Dwight Snyder
Rt. 2, Boc 113
Oakland, Maryland 21550

Personally appeared before me this _____day of November, 1975, a Notary Public authorized by law to administer oaths, J. Dwight Snyder, and affirms that the foregoing letter is true as he verily believes.
Witness my hand and seal the date above first written.

Notary Public

My commission expires;

Form **843**
(Rev. July 1974)
Department of the Treasury
Internal Revenue Service

Claim

Director's Stamp
(Date received)

NOV 1

For Internal Revenue Service Use Only

☐ Refund of taxes illegally, erroneously, or excessively collected.
☐ Refund of amount paid for stamps unused, or used in error or excess.
☐ Abatement of tax assessed (not applicable to income, estate or gift taxes).

Please print or type

Name of taxpayer or purchaser of stamps: J. Dwight Snyder
Number and street: Rt. 2 Box 113
City or town, State, and ZIP code: Oakland, Maryland 21550

Fill in applicable items—Use attachments if necessary

a. Your social security number: 220 30 8543
Spouse's number, if joint return:
b. Employer identification number (if any):
c. Internal Revenue Service office where return (if any) was filed:
d. Name and address shown on return, if different from above:
e. Period—if for tax reported on annual basis, prepare separate form for each taxable year: From ...., 19...., to year of 1971
f. Kind of tax: INCOME
g. Amount of assessment: $ 32,244.94
Dates of payment:
h. Date stamps were purchased:
i. Amount to be refunded (If income tax, complete computation below): $
j. Amount to be abated XXXXXXXXXXXXXXXXXXXXXXXXXXXX: $ 32,244.94

k. Explain why you believe this claim should be allowed.

This assessment was illegally laid, violative of event the most miniscule principles of Due Process of Law and Internal Revenue Sec. 6212 (a).......

RECEIVED
SERVICE CENTER
PHILADELPHIA
NOV 14

RECEIVED
District Director of Internal Revenue
MAR 19 1976
[illegible]
BALTIMORE

Computation of Income Tax Refund	Income Tax
1 Tax withheld	
2 Estimated tax paid	
3 Tax paid with original return	
4 Any additional income tax paid	
5 Total tax paid (add lines 1–4)	
6 Your computation of correct tax	
7 Amount of overpayment (line 5 less line 6)	
8 Amount previously refunded	
9 Net overpayment (line 7 less line 8). Enter here and in item i above	

SELECTED-1

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signed J. Dwight Snyder

Dated 11-10-75, 19....

See instructions on reverse.

Form **843** (Rev. 7-74)

Instructions

1. You may use Form 1040X or Form 1120X to amend an **individual** or **corporation** income tax return. Since these forms are designed for quick processing, the Internal Revenue Service prefers that they be used rather than Form 843.

2. You must set forth in detail under item k the reasons for filing this claim.

3. If you filed a joint income tax return for the year for which you are filing this claim, both you and your spouse should enter your social security numbers and sign this claim even if only one had income. If you have an employer identification number, you should enter it also.

4. The claim may be made by your agent, but the original or a true copy of his power of attorney must accompany the claim.

5. If you are filing the claim as legal representative for a decedent whose return you filed, you should attach to the claim a statement that you filed his return and are still acting as his representative. If you did not file the decedent's return, you must attach to the claim certified copies of the letters testamentary, letters of administration, or similar evidence to show your authority.

6. If a corporation is making the claim, the officer authorized to sign for the corporation should sign this claim and show his title.

7. If you are filing a claim for excess social security (FICA) tax withheld as a result of having more than one employer during a calendar year, include the names and addresses of your employers, and the amount of wages received and FICA employee tax withheld by each, as part of your explanation in item k. Do not claim excess tax withheld if you have already claimed it on your individual income tax return.

Where to File

If your claim relates to alcohol and tobacco taxes, see the regulations pertaining to the particular tax to determine whether you should file with the Regional Director, Bureau of Alcohol, Tobacco and Firearms. Otherwise, file your claim with the Internal Revenue Service Center where you filed your return.

FOR INTERNAL REVENUE SERVICE USE ONLY

Transcript of Claimant's Account

(Complete only as to miscellaneous excise taxes and alcohol, tobacco, and certain other excise taxes imposed under subtitles D and E, Internal Revenue Code.)

The following is a transcript of the record of this office covering the liability that is the subject of this claim.

A—Assessed Taxes

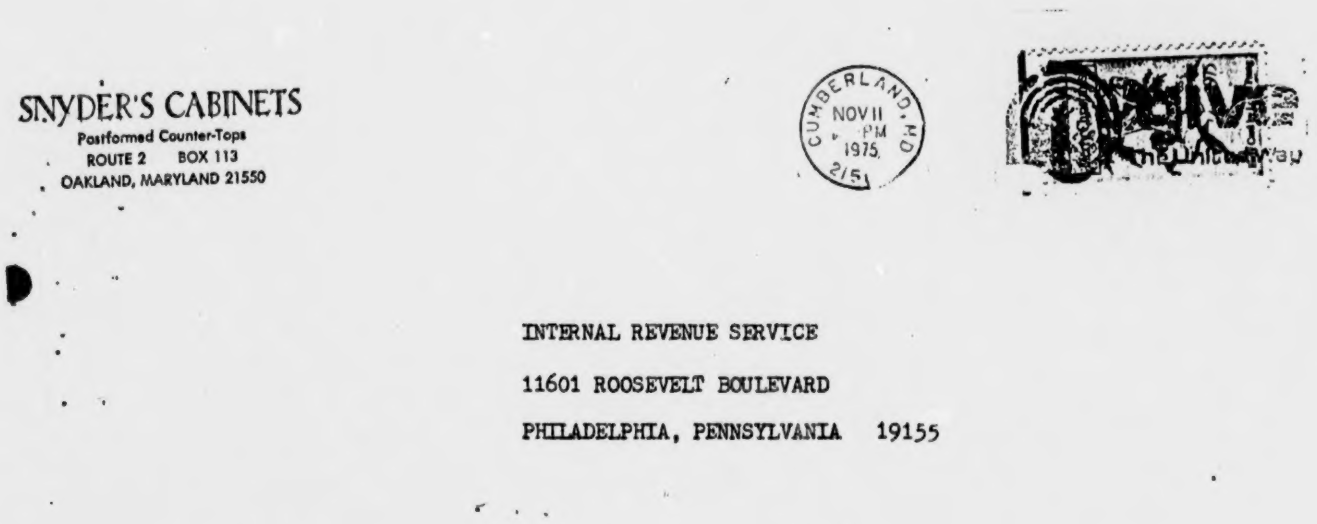
Taxable Period and Class, of Tax (a)	Document Locator No. (b)	Reference and Date (c)	Amount Assessed (d)		Paid, Abated, or Credited				Remarks (h)
					Date or Sched. No. (e)	Amount (f)		PD. AB. CR. (g)	

B—Purchase of Stamps

To Whom Sold or Issued (i)	Kind (j)	Number (k)	Denomination (l)	Date of Sale (m)	Amount (n)		If Special Tax Stamp, State:	
							Document Locator No. (o)	Period Commencing (p)

Prepared by (initials)	Date	Office

☆ U.S. GOVERNMENT PRINTING OFFICE : 1974—O-548-198



SNYDER'S CABINETS
Postformed Counter-Tops
ROUTE 2 BOX 113
OAKLAND, MARYLAND 21550

CUMBERLAND, MD
NOV 11
PM
1975
215

INTERNAL REVENUE SERVICE
11601 ROOSEVELT BOULEVARD
PHILADELPHIA, PENNSYLVANIA 19155

SNYDER'S CABINETS
ROUTE 2, BOX ~~113~~ 119
OAKLAND, MARYLAND 21550
PHONE (301) 334-2662

November 22, 1975

RECEIVED
DEC 1
PSC

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pa. 19020

52-0912412

Dear Mr. Morrill:

I received your letter dated November 21, 1975, today, November 22, 1975. In which you stated, that my payment of tax is over due. I know of no such tax due. You have in your office letters dated September 11, 1975 and October 10, 1975, in which I am still waiting for answers pertaining to this assessment.

I am hoping that you will not violate your oath of office, by not giving me a trail by jury. This privilege is guaranteed to me by our U.S. Constitution in Amendments VII and XIV. I have had no chance for an appeal of any kind, not even a District Conference, Appellet Conference or Tax Court.

I have also, filed a 843 form with you,in which I have not received an answer to this date.

Up to this time, you have not complied with Section 6212, Notice of Deficiency.

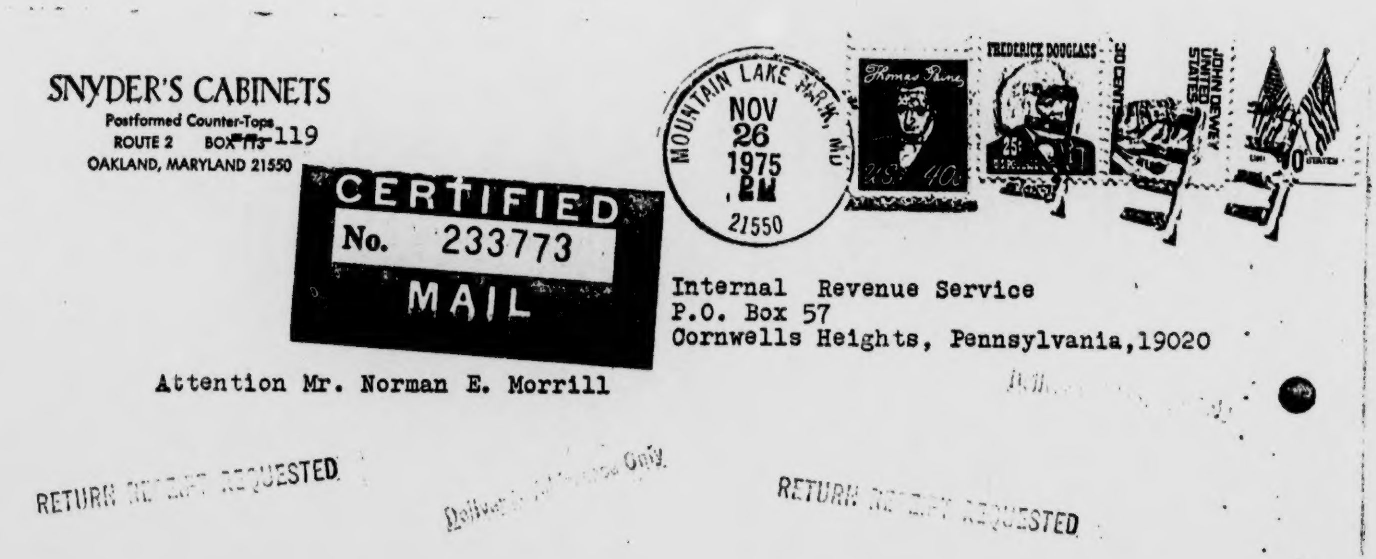
Please send me a copy of 586 as I would like to know if it corresponds with our U.S. Constitution. Also, I would like a copy of the following:

Code of Ethics of the I.R.S.	
9342	Selection of Taxpayers
9383.5	Electronic or Mechanical Eavesdropping
9444	Arrests without Warrants
9452	Seizures without Warrants
9774.1	Handbook for Special Agents
241.44	Electronic Listening Devices
284,51	Use of Raid Kits
9900	Handbook for Special Agents

Thanking you, in advance for this material? I am,

Yours truly,
J. Dwight Snyder
J. Dwight Snyder

220-30-8563
28760880



SNYDER'S CABINETS
Postformed Counter-Tops
ROUTE 2 BOX ~~113~~ 119
OAKLAND, MARYLAND 21550

CERTIFIED
No. 233773
MAIL

MOUNTAIN LAKE PARK, MD
NOV
26
1975
PM
21550

Thomas Paine
40¢
FREDERICK DOUGLASS
25¢
30 CENTS
JOHN DEWEY
UNITED
STATES
10
UNITED STATES

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pennsylvania, 19020

Attention Mr. Norman E. Morrill

RETURN RECEIPT REQUESTED

Deliver to Addressee Only

RETURN RECEIPT REQUESTED

Department of the Treasury

Internal Revenue Service

11601 ROOSEVELT BLVD.
PHILADELPHIA, PA 19155
TELEPHONE (215) 671-2601

Date: DEC. 11, 1975

In reply refer to: 28760880
0288- 1839

J DWIGHT & HALLIE M SNYDER
RT 2 BOX 119
OAKLAND, MD 21550

Social Security Number: 220-30-8543
Tax Period: Dec. 31, 1971

Dear Mr. & Mrs. Snyder:

We are working on your Form 1040 tax account for the period indicated above, and will contact you again as quickly as we can.

If you have any questions and wish to write us, please use the address shown on this letter. Our telephone number is shown in the heading of this letter if you want to call us. There will be a long distance charge to you if you are beyond the immediate dialing area of the service center (you can check with your local telephone operator). If you decide to call us, please ask for F. Steinberg.

Thank you for your patience.

Sincerely yours,

J. Steinberg

Chief, Taxpayer Assistance Section

C-288 (Rev. 1-75)

Department of the Treasury
Internal Revenue Service

[illegible]

Date of this Letter
12-12-75
Identifying Number
220-30-8543 ZV
Document Locator Number
52254-299-01746-5

503 828 5201

◀ If you inquire about your account, please refer to these numbers or attach the copy of this letter

COPY

J DWIGHT SNYDER
RT 2 BOX 113
OAKLAND, MD 21550

Dear Taxpayer:

We have previously written you asking for payment of the Federal tax identified below, but we have no record of receiving it. The tax is overdue and you should pay it within the next 10 days to avoid additional interest and penalty charges, and enforced collection action.

The law authorizes us to file a Federal tax lien and seize your property, wages, or other assets to satisfy your tax liability. To prevent this enforcement action, we urge you to send your payment promptly to the address below or contact your nearest Internal Revenue Service office.

Please make your check or money order payable to the Internal Revenue Service, show your social security or employer identification number on it, and send it to us with the copy of this letter to insure prompt and accurate credit.

If the total amount due as shown below is incorrect because of a recent payment or other adjustment, please send us any balance due, and explain on the back of this letter.

An envelope is enclosed for your convenience. Thank you for your cooperation.

RECEIVED
JAN 05 1976
PSC

Sincerely yours,

Director

Enclosures:
Copy of this letter
Envelope

Tax Form Number . . .	1040
Tax Period Ended . . .	12-31-71

Balance of Prior Assessment $	48,679.71
Late Payment Penalty	
Interest	1,015.52
Total Amount Due . . . . . $	49,695.23

Reply to:

INTERNAL REVENUE SERVICE
P.O. BOX 57
CORNWELLS HEIGHTS, PA 19020

30-7112

EXHIBIT."J"

SNYDER'S CABINETS
ROUTE 2, BOX 173-119
OAKLAND, MARYLAND 21550
PHONE (301) 334-2662

December 29,1975

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pa.19020

I received your letter dated December 11,1975, in which you stated you were working on my 1971 1040 return. You also, stated you would contact me as quickly as possible.

On December 24, 1975, I also, received another letter dated December 12,1975. In that letter you stated that you had written me previously. I have answeredevery letter that I have received from you. The truth is you have not answered any of my letters dated: September 11,1975, November 11,1975, November 26,1975. I am still waiting answers to those letters. I also, filed an 843 form which I have had no reply.

I have asked for laws and regulations and also, my appeal rights in this case. To date, I have not received a word from you concerning any of this. I am asking again for my appeal rights, laws and regulations.

What kind of an assessment is this? If this is a jeopardy assessment when did I come under Sec. 6851?

If this is not a jeopardy assessment, you are required under 6212 to send a deficiency notice by certified or registered mail. Have you done this? If so, what date and who signed for it? Please send me a copy of the card so I can locate who received it.

I do not owe this bill and wish to have Due Process of Law. I will pay any tax that I lawfully owe.

I would also, like a copy of all the work sheets as to how my income was computed according to 453.3d.

Again, I am waiting an answer.

Yours truly,
J. Dwight Snyder
J. Dwight Snyder

two enclosures

EXHIBIT "K"

Department of the Treasury
Internal R[illegible]nue Service

RECEIVED
JAN [illegible] 1978
52 DIST. DIR. OF INT. REV.
CERTIFIED MAIL
BALTIMORE

Date of this Letter
01-02-76
Identifying Number
220-30-8543 ZV
Document Locator Number
52254-299-01746-5

504 - 828 - 5201

◀ If you inquire about your account, please refer to these numbers or attach
◀ the copy of this letter

J DWIGHT SNYDER
RT 2 BOX 113
OAKLAND, MD 21550

COPY

FINAL NOTICE BEFORE SEIZURE

Dear Taxpayer:

On previous occasions we notified you that your Federal tax identified below is overdue and must be paid. Since we have no record of a reply, this is our final notice and demand before seizure of your assets to enforce payment.

To prevent such action, please send us within 10 days from the date of this letter your check or money order for the total amount due, payable to the Internal Revenue Service. Please show your social security or employer identification number on it, and enclose the copy of this letter to assure prompt and accurate credit. An envelope is enclosed for your convenience.

If the total amount due as shown below is incorrect because of a recent payment or other adjustment, you should contact us at the address given at the bottom of this letter so we can correct your account.

Otherwise, 10 days after the date of this letter and with no further notice to you, any salary or wages due you will be levied upon by serving a notice of levy on your employer. Bank accounts, receivables, commissions or other income, property or rights to property belonging to you may also be seized.

Very truly yours,

Director

Enclosures:
Copy of this letter
Envelope

Tax Form Number . . .	1040
Tax Period Ended . . .	12-31-71
Balance of Prior Assessment $	48,679.71
Late Payment Penalty	
Interest	1,232.57
Total Amount Due . . . . . $	49,912.28

Reply to:

INTERNAL REVENUE SERVICE
31 HOPKINS PLAZA
BALTIMORE, MD 21201

EXHIBIT "L"

30-7112

SNYDER'S CABINETS
ROUTE 2, BOX 119
OAKLAND, MARYLAND 21550
PHONE (301) 334-2662

January 11,1976

Internal Revenue Service
31 Hopkins Plaza
Baltimore, Maryland, 21201

Dear Mr. Portney:

I received your letter dated January 2, 1976 on January 7,1976. In which you stated that I had been notified previously of tax due. You also, stated that you have no record of reply from me. This is in error as I have replied to every letter which I have received. Listed below are the dates of the letters which I have mailed to you by certified mail:

1- August 14, 1975	Signed for by Mr. Karl F. Perkins
2- September 11,1975	Certified No. 165543
3- November 18,1975	" " 224833
4- November 26,1975	" " 233773
5- December 29,1975	" " 233775- 233774

I owe no such tax bill. As I have said in letters before, if you think that I do I am asking for "Due Process" of law. I have asked for my appeal rights, laws and have even filed an 843 form. To date, I have not received an answer of any kind to any of these letters.

I have not had a district hearing, appellent conference or an opportunity to appear in tax court. Again, what are my rights in this case?

What kind of assessment is this? Have you complied with Section 6212? If this is a jeopardy assessment, you should send me a deficiency notice within 60 days after assessment so I can file with the tax court. See Section 6861-B.

I would like a copy of all the work sheets used,under the 1967 Free Information Act.

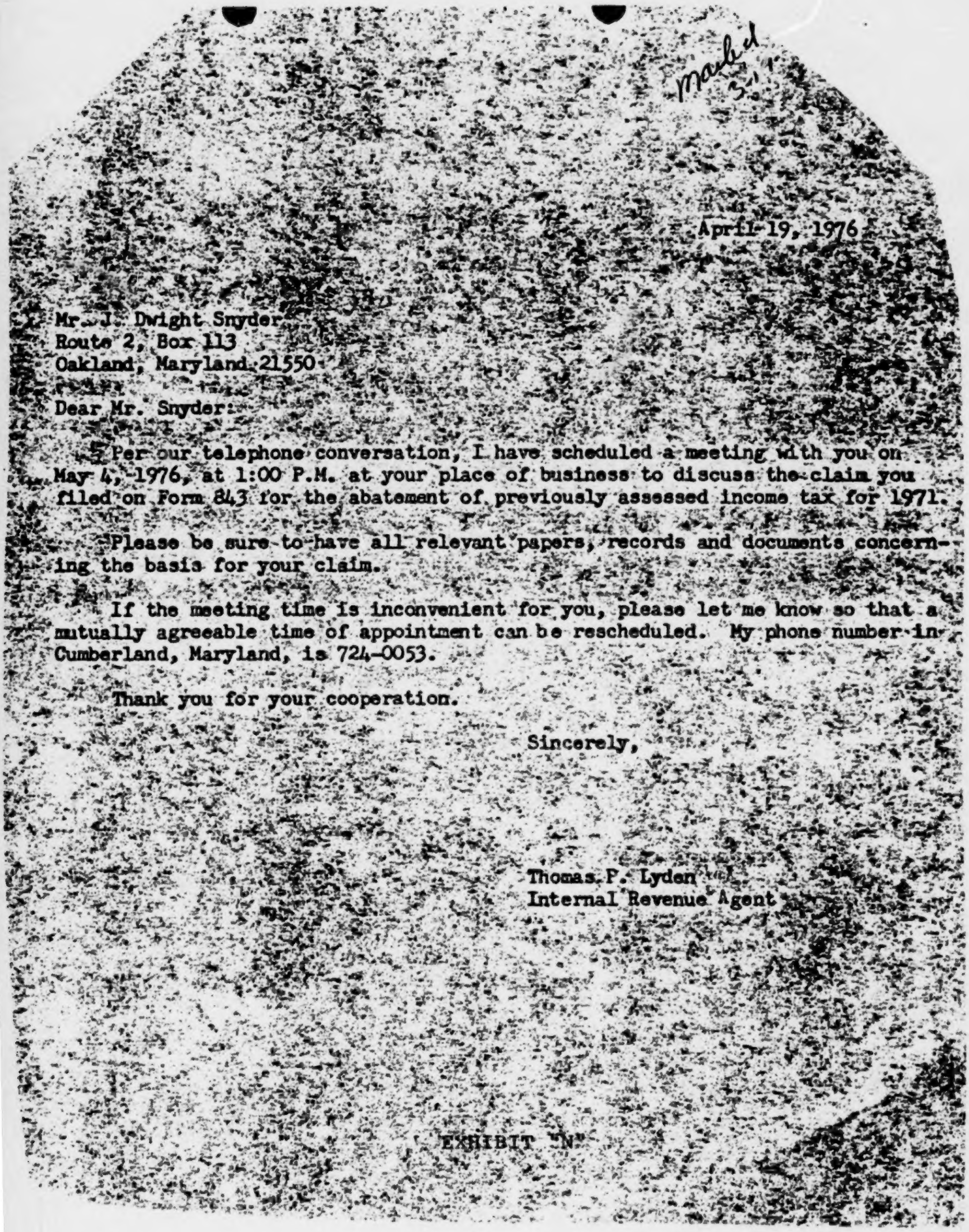
This letter is the sixth notice that I have received from you to date. This represents a clear case of harrassment. I feel if this harrassment continues I will be forced to take appropiate legislation or other necessary measures to end said harrassment.

Yours truly,

J. Dwight Snyder

J. Dwight Snyder

EXHIBIT "M"



Mailed
3/

April 19, 1976

Mr. J. Dwight Snyder
Route 2, Box 113
Oakland, Maryland 21550

Dear Mr. Snyder:

Per our telephone conversation, I have scheduled a meeting with you on May 4, 1976, at 1:00 P.M. at your place of business to discuss the claim you filed on Form 843 for the abatement of previously assessed income tax for 1971.

Please be sure to have all relevant papers, records and documents concerning the basis for your claim.

If the meeting time is inconvenient for you, please let me know so that a mutually agreeable time of appointment can be rescheduled. My phone number in Cumberland, Maryland, is 724-0053.

Thank you for your cooperation.

Sincerely,

Thomas P. Lyden
Internal Revenue Agent

EXHIBIT "N"

Route 2 Box 119
Oakland, Maryland
April 26, 1976

Internal Revenue Service
Audit Division
P.O. Box 524
Cumberland, Maryland, 21501

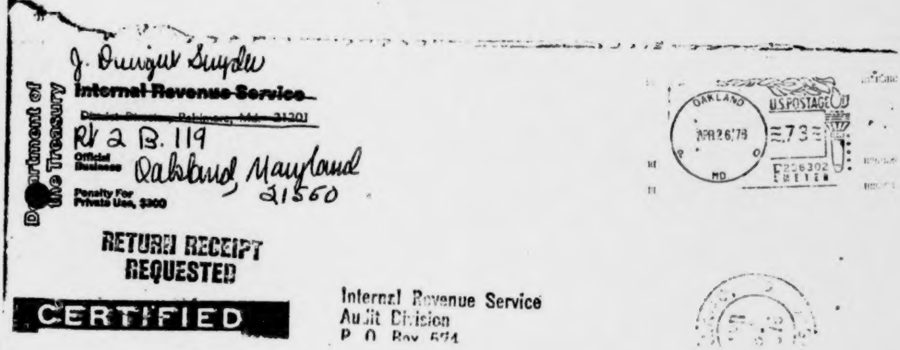
Dear Mr. Lyden:

I received your letter of April 19, 1976. Would you please send me a power of attorney form so that I can obtain counsel.

I would also, like to request that this interview be postponed for 90 days until I have suffient time to obtain said counsel.

Yours truly,
J. Dwight Snyder
J. Dwight Snyder

EXHIBIT "O"



J. Dwight Snyder
~~Internal Revenue Service~~
~~District Director, Baltimore, Md. 21201~~
Rt 2 B. 119
Oakland, Maryland
21560

Department of the Treasury

Official Business

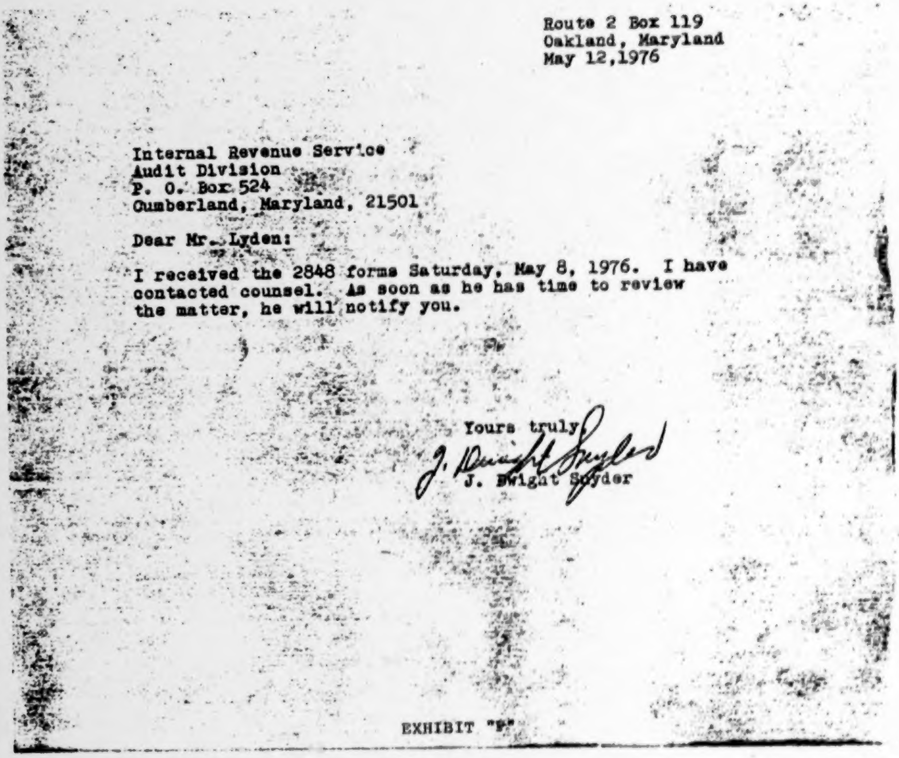
Penalty For Private Use, $300

RETURN RECEIPT
REQUESTED

CERTIFIED

Internal Revenue Service
Audit Division
P. O. Box 524

OAKLAND
APR 26'76
MD
US POSTAGE
.73
F 226302



Route 2 Box 119
Oakland, Maryland
May 12,1976

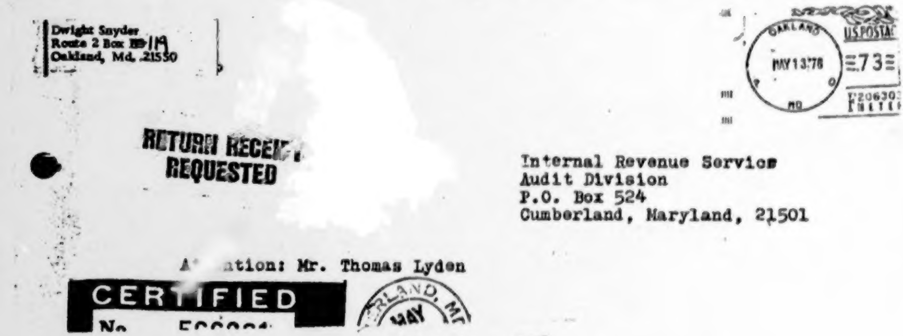
Internal Revenue Service
Audit Division
P. O. Box 524
Cumberland, Maryland, 21501

Dear Mr. Lyden:

I received the 2848 forms Saturday, May 8, 1976. I have contacted counsel. As soon as he has time to review the matter, he will notify you.

Yours truly,
J. Dwight Snyder
J. Dwight Snyder

EXHIBIT "F"



Dwight Snyder
Route 2 Box ~~119~~ 119
Oakland, Md. 21550

OAKLAND MD
MAY 13 '76
US POSTAGE
73

RETURN RECEIPT
REQUESTED

Internal Revenue Service
Audit Division
P.O. Box 524
Cumberland, Maryland, 21501

A[illegible]tion: Mr. Thomas Lyden

CERTIFIED
No.

CUMBERLAND, MD
MAY

REPORT TRANSMITTAL

Not to Be Mailed to Taxpayer

TOTAL HOURS 22

NAME AND ADDRESS OF TAXPAYER
J. Dwight Snyder
Rt 2, Box 119
Oakland, Md 21550

RELATED CASES OR KEY CASE
none

RETURN FORM NO. 1040
~~YEARS OR PERIODS~~ 7112

RETURN FORM NO.
YEARS OR PERIODS

AGREEMENT
☐ FULL ☐ PARTIAL ☒ NONE

OTHER INFORMATION (Unagreed issues and important information not covered in workpapers or report)

A statutory deficiency notice was mailed to the Taxpayer, by certified mail, on April 14, 1975. The original envelope with the original notice of deficiency is marked with the certified mail number 223632. It is stamped with the word "refused" and it shows that the Postal Service left notices of attempted delivery with the addressee on April 15, 1975 and April 21, 1975. It was returned to the sender on April [illegible], 1975.

The Taxpayer failed to petition the Tax Court in the ninety day period and an deficiency assessment was made. Upon receipt of the notices of the income tax, penalty and interest due the Taxpayer wrote to the Internal Revenue Service stating he was puzzled as to its meaning (See correspondence in file). The Taxpayer also wrote to Senator Montoya in [illegible] The letters to Senator J. Glenn Beall. Senator Beall requested District Director Gerald [illegible] Portney to give consideration to these letters.

The District Director replied to Senator Beall that claims for abatement of income tax are specifically precluded pursuant to section 6404(b) of the Internal Revenue Code but it was an administrative practice to give consideration to previously

EXAMINING OFFICER Thomas [illegible]

DATE 5-17-76

APPROVED BY (Signature of reviewer)

Form 4665 (Rev. 9-71)

EXHIBIT "Q"

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

FORM 886-A (REV. APRIL 1968)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT Page 2
NAME OF TAXPAYER J. Dwight Snyder	Rt 2 Box 117 Oakland, Md. 21550	YEAR/PERIOD ENDED 7112

assessed income tax deficiencies to attempt to resolve any disputed adjustments as expeditiously as possible. Mr. Portney advised Senator Beall that Mr. Snyder would be given an opportunity to present information or evidence relevant to a determination of his correct tax liability for 1971.

On claim form 843 in the explanation of why he believes the 1971 income tax of $32,244.94 should be abated the taxpayer comments "This assessment was illegally laid; violate of even the most miniscule principles of Due Process of Law and Internal Revenue Service Section 6212 (a) ---- "

Code Section 6212 (a) states - If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A or B or chapter 42 or 43, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

Mr J. Dwight Snyder was issued a Statutory Deficiency Notice on April 14, 1975 reflecting a deficiency for the 1971 year of $32,244.94 plus a penalty of $1,612.25. He failed to contest this determination by filing a petition within the 90 day period with the United States Tax Court; therefore the tax was assessed.

The Statutory Deficiency Notice, sent to the taxpayer's last known address by certified mail (No. 223632), was refused by the taxpayer. The envelope containing

FORM 886-A
(REV. APRIL 1968)

EXPLANATION OF ITEMS

SCHEDULE NO. OR EXHIBIT: Page 3

NAME OF TAXPAYER: J. Dwight Snyder
Rt 2 Box 119
Oakland Md. 21550

YEAR/~~PERIOD~~ ENDED: 7112

The notice is in the case file. The envelope is marked 'refused' and states the first notice of the letter was April 15, 1975, the second notice 4-21-75 and then returned to the sender on 4-29-75.

In my phone conversation with Mr Snyder I commented that he refused to accept from the Postal Service the Statutory Deficiency Notice. Mr Snyder did not reply to this statement. It is my conclusion that the Internal Revenue Service has complied with the provisions of the law in notifying Mr. Snyder of the deficiency

A notice sent by registered mail to the correct address is adequate, whether or not received

Gillespie 5 TCM 1028 Dec 15,513 (M)
Brown v Lethert (CA-8) 66-1 USTC ¶ 9418, 360 F 2nd 560
J.D. Houghman 48 TC 656, Dec 28,566
A.B. Cataldo 60 TC 522, Dec 32,032 Aff'd. per curiam, (CA-2), 74-2 USTC 9533, F 2nd 550.
I. Ostrikov 34 TCM 522, Dec 33,153(M) TC memo 1975-108

There is a presumption however that a deficiency notice, if mailed, arrived at the correct address. G.P. DeLuca (DC) 75-1 ¶ 9107

----- "There is no requirement that a notice sent by registered mail must be actually received" ----
M.H. Cohen (CA-9) 62-1 USTC ¶ 9202

FORM 886-A (REV APRIL 1968)	EXPLANATION OF ITEMS	SCHEDULE NO. OR ~~EXHIBIT~~ Page 4
NAME OF TAXPAYER J Dwight Snyder	Rt 2 Box 119 Oakland, Md 21550	YEAR ~~PERIOD~~ ENDED 7112

The consideration of the Taxpayer's claim for abatement of $\$32{,}244^{74}$ is being closed at this time. The Taxpayer has been afforded every opportunity both in this current contact and during the original audits to show proper computation of his taxable income. The Taxpayer's request for an additional 90 days to retain counsel is just another guise in one of his many delay tactics. In his last correspondence the taxpayer said he has contacted (underlining supplied) counsel who would notify me as soon as he has time to review the matter. Mr. Snyder did not mention the name of his counselor while reporting he understood counsel could not be retained until he had a power of attorney, form 2848.

It is noted that the taxpayer shows his current address as Rt 2 Box 119 Oakland, Md. 21550. In the past I have sent correspondence to the last known address, Rt 2 Box 113 Oakland, Md 21550. The taxpayer has received mail at this address as noted in his correspondence of May 12, 1976 in which he notes having received form 2848.

In W.A. Shaw, 27 T.C. 561, 573(1956) Affd. 252 F. 2nd 481 (6th Cir 1958), Where a T/P refuses to produce "evidence solely within his possession, which, if true, would be favorable to him" The presumption arises that "if produced it would be unfavorable

8/12/81. See letters attached to 12.18. TP had ample time to present his case.

ALLEN J. ELLENDER, LA.
JOHN L. MCCLELLAN, ARK.
WARREN G. MAGNUSON, WASH.
SPESSARD L. HOLLAND, FLA.
JOHN C. STENNIS, MISS.
JOHN O. PASTORE, R.I.
ALAN BIBLE, NEV.
ROBERT C. BYRD, W. VA.
GALE W. MCGEE, WYO.
MIKE MANSFIELD, MONT.
WILLIAM PROXMIRE, WIS.
RALPH YARBOROUGH, TEX.
JOSEPH M. MONTOYA, N. MEX.

MILTON R. YOUNG, N. DAK.
KARL E. MUNDT, S. DAK.
MARGA[illegible]ASE SMITH, MAINE
ROMAN [illegible]SKA, NEBR.
GORDON [illegible]LOTT, COLO.
NORRIS COTTON, N.H.
CLIFFORD P. CASE, N.J.
HIRAM L. FONG, HAWAII
J. CALEB BOGGS, DEL.
JAMES B. PEARSON, KANS.

THOMAS J. SCOTT, CHIEF CLERK
WM. W. WOODRUFF, COUNSEL

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

November 13, 1975

Mr. J. Dwight Snyder
Route 2, Box 133
Oakland, Maryland 21550

Dear Mr. Snyder:

Thank you for writing me regarding the problem you have encountered with the Internal Revenue Service.

As you know, my Appropriations subcommittee has conducted a series of extensive hearings into the taxpayer assistance and compliance programs of the IRS. During those hearings we heard testimony from consumer advocates, taxpayers, and experts in the field of taxation, tax law enforcement, and the operations of the IRS itself. Many problems plaguing the taxpayer were made clear to us at those hearings.

As a result of the information which I received, I have become increasingly concerned with taxpayers' problems such as the one you described. Unfortunately, the large number of requests for assistance which I receive prohibits me from giving each the attention which it deserves. Therefore, I am forwarding your letter to one of the senators who represents your state, the Honorable J. Glenn Beall.

I am sure that he will appreciate knowing the opinions and problems of his constituency and will welcome the opportunity to serve you. You may be assured, however, that your comments have been most helpful to me.

With best wishes, I am

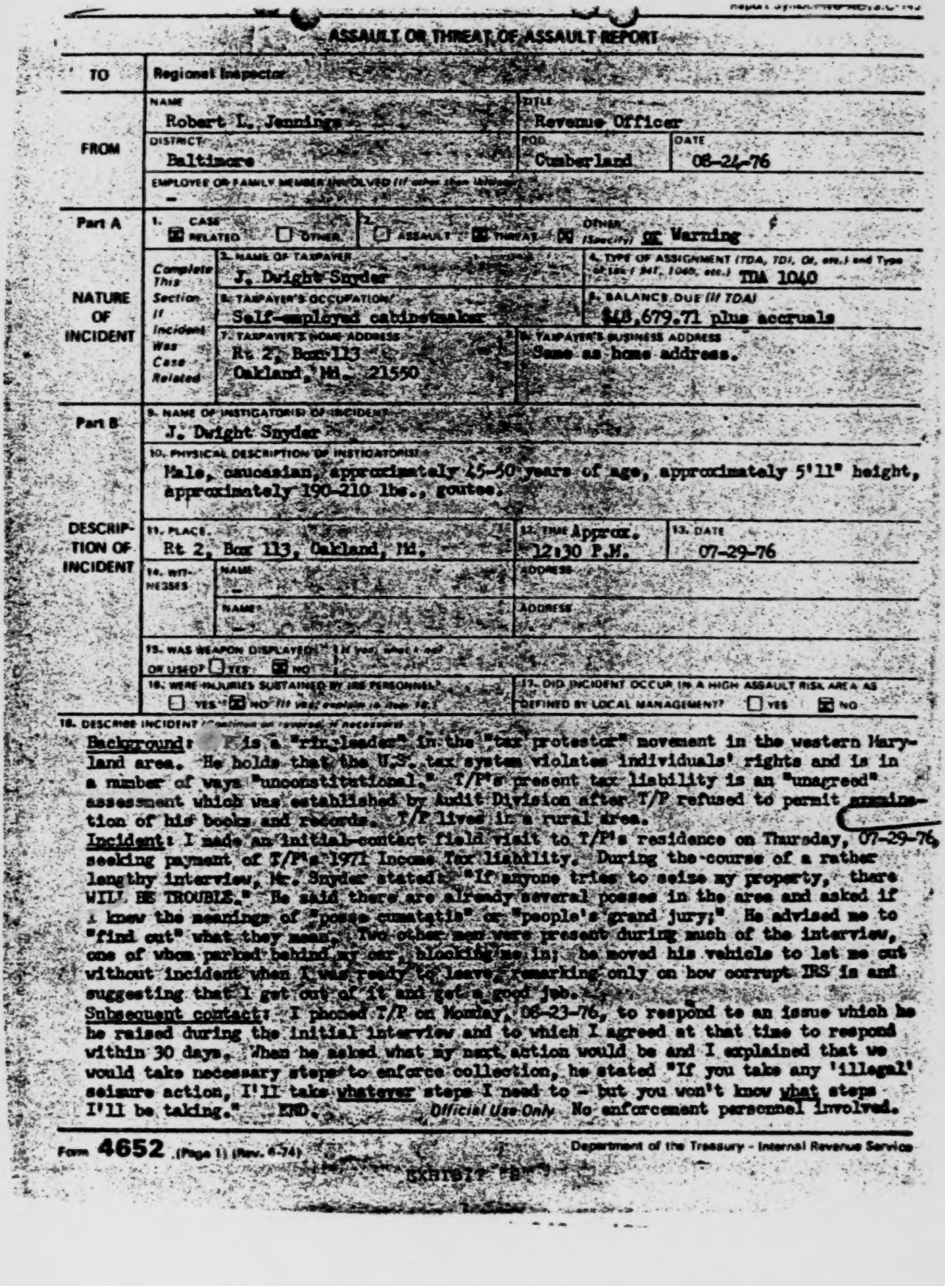
Sincerely,

Joseph M. Montoya
United States Senator

JMM/ssd

CC: Honorable J. Glenn Beall

EXHIBIT "R"



ASSAULT OR THREAT OF ASSAULT REPORT

TO: Regional Inspector

FROM:
NAME: Robert L. Jennings
TITLE: Revenue Officer
DISTRICT: Baltimore
POD: Cumberland
DATE: 08-24-76
EMPLOYEE OR FAMILY MEMBER INVOLVED (If other than Writer): –

Part A — NATURE OF INCIDENT

1. CASE ☒ RELATED ☐ OTHER
2. ☐ ASSAULT ☒ THREAT ☒ OTHER (Specify) or Warning

Complete This Section If Incident Was Case Related

3. NAME OF TAXPAYER: J. Dwight Snyder
4. TYPE OF ASSIGNMENT (TDA, TDI, OI, etc.) and Type of tax (941, 1040, etc.): TDA 1040
5. TAXPAYER'S OCCUPATION: Self-employed cabinetmaker
6. BALANCE DUE (If TDA): $48,679.71 plus accruals
7. TAXPAYER'S HOME ADDRESS: Rt 2, Box 113, Oakland, Md. 21550
8. TAXPAYER'S BUSINESS ADDRESS: Same as home address.

Part B — DESCRIPTION OF INCIDENT

9. NAME OF INSTIGATOR(S) OF INCIDENT: J. Dwight Snyder
10. PHYSICAL DESCRIPTION OF INSTIGATOR(S): Male, caucasian, approximately 45-50 years of age, approximately 5'11" height, approximately 190-210 lbs., goutee.
11. PLACE: Rt 2, Box 113, Oakland, Md.
12. TIME: Approx. 12:30 P.M.
13. DATE: 07-29-76
14. WITNESSES: NAME: – ADDRESS:
NAME: – ADDRESS:
15. WAS WEAPON DISPLAYED OR USED? ☐ YES ☒ NO (If yes, what kind?)
16. WERE INJURIES SUSTAINED BY IRS PERSONNEL? ☐ YES ☒ NO (If yes, explain in item 18.)
17. DID INCIDENT OCCUR IN A HIGH ASSAULT RISK AREA AS DEFINED BY LOCAL MANAGEMENT? ☐ YES ☒ NO

18. DESCRIBE INCIDENT (Continue on reverse, if necessary)

__Background__: [illegible]P is a "ringleader" in the "tax protestor" movement in the western Maryland area. He holds that the U.S. tax system violates individuals' rights and is in a number of ways "unconstitutional." T/P's present tax liability is an "unagreed" assessment which was established by Audit Division after T/P refused to permit examination of his books and records. T/P lives in a rural area.

__Incident__: I made an initial-contact field visit to T/P's residence on Thursday, 07-29-76, seeking payment of T/P's 1971 Income Tax liability. During the course of a rather lengthy interview, Mr. Snyder stated: "If anyone tries to seize my property, there WILL BE TROUBLE." He said there are already several posses in the area and asked if I knew the meanings of "posse comitatis" or "people's grand jury;" He advised me to "find out" what they mean. Two other men were present during much of the interview, one of whom parked behind my car, blocking me in; he moved his vehicle to let me out without incident when I was ready to leave, remarking only on how corrupt IRS is and suggesting that I get out of it and get a good job.

__Subsequent contact__: I phoned T/P on Monday, 08-23-76, to respond to an issue which he he raised during the initial interview and to which I agreed at that time to respond within 30 days. When he asked what my next action would be and I explained that we would take necessary steps to enforce collection, he stated "If you take any 'illegal' seizure action, I'll take __whatever__ steps I need to – but you won't know __what__ steps I'll be taking." END. No enforcement personnel involved.

Official Use Only

Form 4652 (Page 1) (Rev. 6-74) Department of the Treasury - Internal Revenue Service

EXHIBIT "B"

ARTHUR P. TRANAKOS
ATTORNEY AT LAW
SUITE 809 STANDARD FEDERAL SAVINGS BUILDING
41 MARIETTA STREET, N.W.
ATLANTA, GEORGIA 30303
TELEPHONE 404-577-3430

ARTHUR P. TRANAKOS
BARRY L. ZIPPERMAN
ROBERT F. WEBB

July 16, 1982

Mr. Charles B. Rangel, Chairman
Subcommittee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Investigation into I.R.S. Abuse
Submitted by James Dwight Snyder

Dear Congressman Rangel:

Your letter of June 14, 1982 addressed to Mr. Snyder has been forwarded to me for reply on his behalf. We would like to have the opportunity to examine and respond to any submission made by the Internal Revenue Service.

The abuse of the taxpayer by the Internal Revenue Service as to the tax year 1971 falls into three basic categories. (1) determination of the tax liability, (2) failure to correct the tax liability, and (3) collection of the tax.

As Mr. Temple states on lines 4344 et seq. of the hearing transcript, there was a joint civil and criminal investigation into 1971 and 1972 tax liability of James Dwight Snyder at the conclusion of which Special Agent Rutkowski's report concluded there was $890 in tax liability for the year 1971 (Exhibit "A" to letter of May 11, 1982 to Congressman Rangel). Tom Lyden, Revenue agent, used the same bank deposit figures but ignored all of the checks relating to business expenses which agent Rutkowski used to determine taxable income and the tax liability of $890. This resulted in a Statutory Notice of Deficiency being issued on April 14, 1972 (Exhibit "B", May 11, 1982 letter) which Dwight Snyder did not pick up at the post office due to his illness.

The Internal Revenue Service can take the position as they have on lines 4412 et seq. that the $890 tax figure was an absolute minimum, but this is the only calculation made by the Internal Revenue Service in approximately ten years of analyzing and auditing Dwight Snyder's 1971 tax return that gave any credance to the fact that Dwight Snyder had business expenses and that those expenses were represented by checks, copies of which are in the possession of the Internal Revenue Service.

Mr. Temple's statement on line 4419 et seq. that Snyder may have had $20,000 or $30,000 worth of personal expenses is a sad commentary on Mr. Temple's investigative ability. Those checks are in the possession of the Internal Revenue Service and they reflect no such figure. Temple investigated Snyder for five years and knows they do not have living expenses of even half of those figures. This type of incredulous statement supports the Snyder assertion as to the Mopsick promise.

The apparent problem was the agent's stubborness and refusal to use the information at hand to perform a quality audit and his determination to harass and punish Snyder until they got him as Steven Mopsick said they would. The revenue agent admitted in testimony in the November, 1981, Snyder trial that he had access to the expense checks but did not use them.

The policy expressed by Mr. Temple on line 4389 et seq. that the revenue agent's responsibility was solely to prove income and the taxpayer had the responsibility to prove business expenses contrary to the policy initiated by the Internal Revenue Service under Mortimore Caplin in 1960. In all fairness an agent should assist the taxpayer to conduct a quality audit to the end that a fair tax liability should be assessed. The revenue agent should not be an adverse party in an advocate taxing system. As to 1971 the revenue agent had the income determined from the bank deposits and had all of the expense checks.

The Internal Revenue Service through Temple on line 4400 continues to attempt to shift the blame for the abuse to Snyder by stating that he should have filed a tax return or at least cooperated with the revenue agent. My Snyder witnessed the revenue and special agents obtained the bank records containing all of his deposits and checks. This fact has been admitted by the revenue agent. What other cooperation would be fruitful? What additional verification could the Internal Revenue Service need? If the agent had needed any explanation as to the purposes of any checks he could have asked and he would have been furnished this information.

Mr. Temple's admission on line 4398 et seq. that anyone can evaluate the situation and realize that Snyder had been done an injustice by the assessment of the large tax liability of $37,000 and the refusal of the Internal Revenue Service to adjust same. The purpose of these proceedings is to avoid this circumstance occurring again and to put sufficient safeguards in the law so that the Internal Revenue Service cannot arbitrarily ignore taxpayers information in the future.

The Internal Revenue Service had numerous correspondence from Snyder (Exhibits "D, F, G, H, K and M" May 11, 1982 letter) asking that this matter be reconsidered that he be given credit for his expenses. The Internal Revenue Service had from September 11, 1975 to February, 1980 to review the amount of business expenses and deductions reflected in his checks.

The communications by the Internal Revenue Service to Dwight Snyder relative to the assessment and collection thereof commenced on September 8, 1975 and terminated January 2, 1976 (Exhibits "C, E, J and L", May 11, 1982 letter).

Without question, the statement of Commissioner Egger on lines 4448 et seq. relative to the appeal opportunities including the Problem Resolution Office is accurate; however, Dwight Snyder and most other taxpayers have no concept of their rights vis-a-vis the Internal Revenue Service. The concept promoted by the Internal Revenue Service intentionally or inadvertently is that they have no rights and no protection against the Internal Revenue. The fear and trepidation promoted by our government through the Internal Revenue Service is most destructive of an orderly society. This atmosphere is perpetrated by auditors, handling numbers of tax cases within a short time without the inclination, direction or incentive to assist taxpayers in determining an accurate assessment and obtaining payment of a fair liability.

The statement of John Spraks on line 4333, et seq. where he states that the first time that he ever heard that the liability for 1971 was $800 or $900 was during the criminal trial in November of 1981 is indicative of disregard for taxpayer's right in this entire affair. A revenue officer to perform his duties must familiarize himself with the files relative to the liability. In a matter of such complexity, the coordination of Marshalls, special agents, revenue officers, inspection agents, state patrol, moving vans, tow trucks, and locksmiths, certainly Mr. Sparks should have looked at the file.

Don Temple was aware of $890 liability for the year 1971 as early as 1976 when he began his investigation of Snyder for the year 1973, 1974 and 1975. Temple was an integral part of the collection process and planning for the raid of February, 1981, from the beginning. Both of these, among other agents,closed their eyes to their duties and responsibility in the Snyder matter.

Commissioner Egger's statement on lines 4468 that the process can be stopped in its tracks is an exaggeration. The process of stopping such action is not so simple and is virtually unknown to most taxpayers, especially when the Internal Revenue Service employees refuse to listen to reason.

The Internal Revenue Service attempted to justify the armed force raid of the Snyders by the following statements:

1) Warren Harrison, Chief of Operations for the Criminal Investigation Division, was at the time Assistant Chief of the Criminal Investigation Division in Maryland, and testified on Lines 4269, et seq., that "for a period of ten (10) years we had information of difficulties in collecting accounts, in assessing tax, and in any method or means or cooperation by Mr. Snyder . . . "

2) Special Agent Donald Temple on lines 3868, et seq., states that "Mr. Snyder had made implied threats to the Service employees in the past. This activity began in 1975 or 1976 . . ."

3) On line 3915 Donald Temple states that "The threats occurred in 1975, 1976, 1977 and 1978.

4) Donald Temple on lines 3886, et seq. and the Commissioner on line 3976 refers to the great distance from Garrett County, Maryland to any other federal agencies.

5) On lines 3980-1, the Commissioner refers to requests of the seizure of rifles and shotguns from the Snyders.

6) On lines 4092, et seq. Don Temple relates the snow plow incident that occurred on Ralph Lichty's farm on the day of the raid.

7) Warren Harrison on lines 4276, et seq. referred to "an individual closely associated with Mr. Snyder" [Bill Ashby] "in one occasion" [approximately one (1) month after the raid] "told a special agent" [Don Temple] "that someone is going to get shot out here."

The weakness of the justifications is more evident when reviewed all together. No other reasons to justify the raid were given at the hearing before the Subcommittee.

The reason given in number one by Warren Harrison is not a reason to take any armed action, much less with thirty-nine persons.

The so-called threats referred to numbers two and three above by Don Temple as to 1975, 1976, 1977 and 1978 is unsupported by the facts. Prior to the trial in November, 1981, the Internal Revenue Service furnished Mr. Snyder and I a copy of an "Assault or Threat of an Assault Report", Form 4652, dated August 24, 1976, made by Robert L. Jennings, Revenue Officer. This report was previously submitted as "Exhibit S" to my letter of May 11, 1982 in this matter. The Revenue Officer himself changed the report to reflect a "warning" not assault or threat. The Revenue Officer attributes the following language to Mr. Snyder "If anyone tries to seize my property", "if you take any illegal seizure action", "There will be trouble", and I will take whatever steps I need to, but you won't know what steps I'll be taking". Assuming that the quotes are accurate, these certainly are not threats; the Revenue Officer did not consider them as such. This is nothing more than the statement of a frustrated taxpayer who was unable to obtain cooperation of the Internal Revenue Service. We are not aware of any other such reports. If the Service relies on any other such reports they should produce them or withdraw references to any such instances. This so-called "warning" does not justify an armed force.

The great distance from Garrett County to any other federal agency referred to in number four above is a poor justification for an armed force. The normal course of action would be for the federal agency to ask the assistance of local law enforcement authorities such as Maryland State Patrol, two of which were present, that has approximately ten patrolmen stationed in the area, the Garrett County Sheriff's Department, which has about eight law enforcement officers, and the City of Oakland Police Department that has approximately twenty-four law enforcement agents are within minutes of the Snyder residence. If the Internal Revenue Service had availed itself of those law enforcement agents availability within minutes, the seizure/raid could have been conducted with a maximum of two marshals, two special agents, four collection officers, and two inspection agents, if necessary. As a result therefore, there would have been substantially less imposing and threatening force dispatched to Garrett County from Baltimore which appeared to the residents to be to intimidate the citizens rather than collect the tax.

The presence of rifles and shotguns on the premises could not have been determined until the raid since the agents had never been in the Snyder residence or shop. The snowplow scene on Ralph Litchy's farm referred to in number six above and the threat referred to in number seven above were determined to have occurred after the raid commenced and cannot be used to justify the armed force. The use of these incidents is nothing more than an attempt to mislead the Subcommittee.

The rifles and shotguns of Mr. Snyder's seized were hunting weapons and were in a gun rack other than the loaded rifle in the shop that was used to shoot squirrels from the attic of the shop. The ownership of rifles and shotguns is protected under the constitution and the presence of same in one's home does not justify an armed force raiding a taxpayer.

The Internal Revenue Service and any other investigative authority can find by simple examination of the records that James Dwight Snyder is not a violent person and has never been arrested, charged, or convicted of any violence, that he is a law-abiding citizen, and that his nature and religious background is opposed to violent activity.

The statement referred to in number seven is an attempted distortion of the actual facts. I have interviewed Bill Ashby in this regard and it is very clear that in his conversation with Don Temple he referred to a fear that the government agents were going to shoot someone.

This same attitude permeates the entire Oakland community now that it has seen what a federal armed force will do. The community fears that such an armed force could accidentally inflict harm on the children in school across the road from the Snyders or some of the neighbors if the government agent becomes anxious or misinterprets a situation. We ask the committee to have an agent of the subcommittee to verify this tax by contacting members of the community to determine the effect not only on the children but also on the adults of the community.

Special agent Temple states, on lines 4061-2, that he is not aware of anyone every having harmed an Internal Revenue Service employee or other government employee in the area.

The Commissioner on lines 3969, et seq., admits that there were not any "overt acts of violence or overt acts of intimidation" on the Internal Revenue Service employees but people appeared at Mr. Snyder's at the time the Internal Revenue Service agents visited the property. Concern may have been created by a history of the Internal Revenue Service employees appearing unannounced at his residence either in pairs or fours to conduct investigatory interrogation.

It should be no surprise either to the Service or the Subcommittee that these taxpayers, who have had a great deal of contact with the Internal Revenue Service and who allege that their statements have been misquoted, such as Mr. Snyder does in regard to the assault report referred to previously, seek protection of their statements by having neighbors arrive on the scene to witness the statements and action of the Internal Revenue Service agents or to tape record said conversations. Mr. Snyder on numerous occasions, as referred to in his testimony, lines 1791-2, had been rebuffed by the Internal Revenue Service from using tape recording devices during meetings.

Contrary to Mr. Egger's representations, on lines 3984, et seq., there was nothing difficult about the seizure other than the vast number of items seized. The property was not a particularly large piece of property, less than two acres; the house is an eight room house on two levels; the shop is possibly one hundred feet square and the small business parking lot sits next to the road. The property itself is not heavily wooded, but has a small amount of trees to the rear of the house which would not necessitate an armed force for protection as represented in the testimony. I am sure that the Commissioner has never seen the property or even pictures of the property and is relying on representations made to him by other employees of the Internal Revenue Service.

Don Temple states on lines 4137, et seq., that the Internal Revenue Service didn't request the marshals to take rifles and shotguns; it was their decision. However, the actions taken by the marshals were based on a conference with the Internal Revenue Service and the information given to them relative to the magnitude of the problem at hand.

The number of personnal that came to the property has been confused of late. All previous attempts refer to the number thirty-nine or forty; see Parade Magazine, April 13, 1981, page four and lines 4012, et seq. There is no question that there were eight marshals, four of them armed with M-16 rifles, pistols, and knives and four of them armed with shotguns, pistols and knives. Contrary to Don Temple's representation on lines 4046 and 4078 an M-16 is not a semi-automatic weapon. It is an automatic weapon. Once the trigger is depressed the ammunition is released at a velocity of 700 rounds per minute. (Reference Firearms Technology Branch, Business of Alcohol, Tobacco and Firearms).

The entry into the Snyder residence was described by John Sparks Revenue Officer, on lines 4912, et seq. as a matter of fact occurrence. The situation occurred as follows: two marshals, one armed with an M-16 and one armed with a shotgun, two special agents, one armed with pistols and John Sparks went to the front porch. The marshal knocked on the door brusquely and rather hard. Mrs. Snyder opened the door and a marshal with the shotgun held in front of him stepped in the doorway at which time Mrs. Snyder backed up and opened the door. The marshal did not push against Mrs. Snyder, but Mrs. Snyder must be given enough credit to get out of the way of a man having a shotgun in front of him. After the marshal entered the house he did advise Mrs. Snyder that he was a United States Marshal and explained to her the reason for their presence.

In response to Congressman Crane's question, Mr. Sparks at 4216, et seq., stated he would assume that this action was normal where United States Marshals assisted the Internal Revenue Service to collect taxes. There is no basis in fact for such a statement. The Internal Revenue Service cannot show another incident of this type ever occurred.

The disregard of the rights of Dwight Snyder by the Internal Revenue Service is not limited to the abuses set forth in paragraph 2 of this letter, but the other abuses were not quite as blatent. The disregard by the Internal Revenue Service of Dwight Snyder's correct tax liability of 1971, the failure to correct the tax liability, and the efforts to collect the incorrect tax continue as this committee considers the information submitted. The Service is attempting to reduce the tax lien to judgment in the United States District Court for the District of Maryland and is attempting to collect by levy on note payments owed to Dwight Snyder.

Dwight Snyder and I both hope that the information submitted previously and herewith will be of some assistance to the Subcommittee in recommending legislation and policy changes within the Internal Revenue Service to avoid similar occurrences to taxpayers.

If the Internal Revenue Service has submitted any information by way of documents or comment on the evidence we would appreciate the opportunity to respond to same. We both appreciate the opportunity afforded us to present information to the Subcommittee and stand ready to cooperate with the Subcommittee in any way.

Yours very truly,

Arthur P. Tranakos

APT/csm

Chairman **Rangel**. The next panel is Mr. Blaine Friedlander from Virginia and Mr. Robert Graham from Pennsylvania.

It is my understanding that our colleague, Mr. Schulze, did arrange for Mr. Graham to testify. He has been called to the White House, but we will hear from him as soon as we hear from Mr. Friedlander.

Mr. Friedlander, you understand the 5-minute rule. Your full statement will appear in the record. You may proceed.

If counsel is with you, please state for the record.

Mr. **Friedlander**. I am the counsel.

STATEMENT OF BLAINE P. FRIEDLANDER, COUNSEL, ACCOMPANIED BY MARIE JOHNSON, HAROLD E. TRAMMELL, PASTOR, AND ROBERT HAIGLER, CHAIRMAN, TRUSTEE BOARD, MOUNT JEZREEL BAPTIST CHURCH

Mr. **Friedlander** My name is Blaine Friedlander. I have with me today the pastor of the Mount Jezreel Baptist Church in Washington, D.C., Marie Johnson in the middle, a member of the church and the chairman of the Board of Trustees, Robert Haigler.

It seems sort of strange that a church would be testifying, but for 16 years we have had the pleasure cf the attitude of the IRS as we approached our religious duties.

As you can see in the statement that I have attached, it is a little over 5 minutes, so I am going to cut it briefly.

The Internal Revenue Service in 1975 closed down the Mount Jezreel Day Care Center; thereafter, to collect taxes that could have been paid had they been reasonable, assessed a claim against Marie Johnson in the sum of $18,000.

While the claim was being disputed, the Internal Revenue Service, in an attempt to force a settlement and to require the church to pay taxes they did not owe, levied against Mrs. Johnson's life savings and her salary.

After several years and much unpleasantness, the IRS suggested to us a settlement of a minimal nature, which had to be accepted because the cost of litigation far exceeded the amount they would keep, and they returned most of the money they had seized.

On May 16, 1978 we discovered that Charles Williams, an attorney with IRS, who has been litigating with this church and suing the church since 1967, has used his position with IRS on or about April 18, 1975 to enhance his litigation. He suggested, unbeknownst to us, but to revenue agents or whoever the people were in IRS, that the church be made liable and the minister personally liable for taxes they did not owe.

I attached part of a transcript of a hearing that was held in 1978. Despite the fact that the IRS people admitted at that hearing the illegality of Williams' behavior, I have attached the court record which shows that they took no action and, even worse, they failed to tell us that this was occurring.

Now, despite official IRS records showing that Reverend Trammell had consistently denied the church's liability for alleged taxes, IRS attempted to cause Trammell to assume liability. When this failed, they pretended that Trammell indeed pledged the assets of the church. That portion of the transcript is attached.

When all of this failed, the IRS shifted to me. They demanded that I pay the taxes. They did so not by anything in writing, but in outrageous telephone calls, one of the most violent telephone calls I have ever received.

I immediately called the Commissioner of Internal Revenue and suggested that his people look into this matter. I have heard nothing since.

In 1980 and in February 1981 I was then called to pay these taxes. The last time I talked to Mr. Kieghtley at the IRS, and I told him I wanted this finished. Finally, sometime in the middle of 1981, my name was taken off of the computer.

This $18,000 tax liability occurred because the taxpayer, a day care center, was closed down when an IRS official thought it was an unprofitable enterprise.

This is but one example. Members of the Mount Jezreel Board of Trustees have been audited, far beyond the 2-percent capability or the suggestion of audits by the IRS. In fact, over half have. The minister has been audited each year.

We have filed complaints, and that is our second point. We have filed complaints with the IRS about their activities. We have never heard one response.

In 1981 we filed a formal complaint that extended to the top of IRS. The investigation was stated in February 1981. We were told that it was concluded in August 1981. We have heard not one word.

We have been told on January 20 of this year, by the same Charles E. Williams with whom we were litigating when he heard of our complaint to the IRS—his words were as follows—and Mr. Haigler was with me when it was said—"The IRS does not like tax protesters and deals sternly with them."

We want you to understand we protest. Whether IRS likes it or not, that is not the issue. We protest and we ask for immediate change.

This has been going on for years. One of your witnesses, Mr. Connery, in 1968, testified of some of the problems before this Congress. It was quoted in a book called "The Internal Revenue Service." The literature is replete.

We say to this body that we have filed a petition for redress of grievances. It is presently before this subcommittee. We think the actions of IRS in our regard are violative of our fourth amendment rights and that such are compensable as set forth in our statement. We expect to be compensated, and promptly.

Thank you.

[The prepared statement follows:]

Statement of Blaine P. Friedlander, Fairfax, Va

My name is Blaine Friedlander. I appear today with members of the Mt. Jezreel Baptist Church to advise of our perception of the Internal Revenue Service and to report the misuse of power by members of that body.

On January 20, 1982, Robert Haigler, Chairman, Trustee Board, Mt. Jezreel Baptist Church, and I were told by Charles E. Williams, an attorney employed by IRS, that I should be very cautious in proceeding with our petition for redress of grievances. Mr. Williams said, "IRS does not like tax protesters, and deals sternly with them". We knew that, for we have read the comments of Roscoe L. Egger, Jr., IRS Commissioner, and the remarks of his predecessor, Jerome Kurtz. They have inveighed against "illegal" tax protesters for the past several years, in testimony before this Congress and in articles appearing in the media. We surmise the IRS would find fault with Paul Revere and those Bostonians holding the tea party during the early days of our nation. We protest, whether IRS likes it or not is not an issue. We protest and ask for immediate change.

In 1974, an official of IRS, hiding behind the pseudonym Diogenes, wrote that Revenue Agents and taxpayers are natural adversaries. He stated, "No, I am not your enemy. I am only your adversary". The April Game, Playboy Press, 1974. Page 4. Obviously, he was stating the IRS view.

This Congress will understand Diogenes is in error. We, the taxpayers, are not the adversaries of IRS. We are the bosses. Tax collection is not a game in which we indulge IRS, as Diogenes suggests. You, the Congress, will advise IRS, with appropriate legislation that the taxpayer is the master; Congress and the IRS are but servants of the people.

Each day the IRS violates the Fourth Amendment to the Constitution of the United States which provides:

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..."

Daily, IRS officials mail out notices to banks seizing property and intrude upon the private lives of our citizens without recourse to courts or other supervision. The Supreme Court made it clear that a search or seizure "without authority of law, but solely on the authority of the police" is a practice to be condemned. Wolf v. Colorado, 338 U.S. 25 (1949). We expect this practice to cease, forthwith.

Members of the Mt. Jezreel have suffered from IRS abuse of authority as follows:

•IRS asserted a claim against Marie Johnson for taxes allegedly due. While the claim was being disputed, IRS, in an attempt to force a settlement and require the Church to pay the claim, levied against Mrs. Johnson's life savings and her salary. After much unpleasantness, IRS proposed a minimal settlement, which was accepted for the cost of continued litigation was excessive, and most of the seized funds were returned.

°On May 16, 1978 we discovered that Charles Williams, while engaging in litigation with the church, had used his position with IRS, on or about April 18, 1975, to enhance his litigation. He suggested that IRS make the church and its minister personally liable for taxes they did not owe. (TR 72-74). Despite the fact IRS admitted the illegality of William's behavior, they took no action. (TR 101; 120-126). And they did not tell us this was occuring.

°Despite the official records of IRS showing that Rev. Trammell had denied the church's liability for alleged taxes, IRS attempted to cause Trammell to assume liability. When this failed, IRS officials pretended that Trammell had, indeed, pledged the assets of the church. (TR110-111).

°As these attempts failed, IRS shifted to me. They demanded that I pay the taxes by an outrageous telephone call in December 1978 and again in February 1981. I politely refused.

°The alleged $18,000 tax liability was not paid for IRS, on its own, and contrary to law, actually closed down the taxpayer, a day care center, because an IRS official thought it not a profitable enterprise.

These violations of our constitutional rights are compensable, and we expect full compensation from this body. Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). This body may wish to pursue this subject by reviewing The April Game, supra, wherein Diogenes compares the IRS to the Gestapo and concludes Congress has given IRS too much power. The noted scholar, John C. Chommie, in his work

The Internal Revenue Service, Praeger, 1970, 210-219, discusses the problem of overenforcement.

Roscoe L. Egger, Jr. is concerned that the public perceives IRS as "predatory jackels". Wall Street Journal, March 29, 1982. He told Barrons on May 18, 1980 that he sought to erase the image of IRS as a bully. On April 18, 1980, IRS officials told the Wilmington (Del.) Evening Journal that fear was a major weapon for IRS. On 60 Minutes, Eggers stated that if IRS was not rough, taxes would not be paid and:

> "SAFER: So in less oritund language, it's fear?
>
> EGGER: Well that's your term, not mine. I just chose to say that it's a part of our review program." Cong. Rec. E5507, Nov. 21, 1981.

On May 20, 1980 this subcommittee took testimony of IRS abuses, and so have other committees. How much longer must we, the people,suffer Egger's "Review Program"?

Also, the members of Mt. Jezreel and I are angry about the IRS coverup. We have complained about the use of IRS stationary in an attempt to intimidate witnesses in civil matters. In addition, we have filed a complaint in January 1981 concerning IRS abuses. We were told the investigation concluded in August, 1981. To this day, we have not been apprised of any IRS action. We are told it is none of our business. This is similar to the internal system established by the Gestapo to avoid public disclosure of abusive practices. Secrecy has no place in our government.

The abuses of IRS have been documented and ignored. IRS is asking for more people, more money and more power. Egger stated his position most emphatically on 60 Minutes:

"SAFER: The IRS man is the arresting cop, the judge and the jury all wrapped up in one. Nowhere in our society does this sort of thing happen.

ROSCOE EGGER: We are properly examined by and reviewed by more members of Congress and more committees of Congress than any other agency and if the Congress really believed that we were abusing those powers, I can't, for a moment, think that they wouldn't be doing something about it." Cong. Rec. E55077. Nov. 21, 1981.

Egger, a tax expert with thirty years experience, evades the issue. It is his duty to come before you with meaningful reforms, when such reforms are necessary. It is his obligation to monitor his employees and curb abuses. He has failed so to do. He is telling you, and the American people, that he will not take action, and that he does not think you are willing. So far, he is correct.

Complete relief from IRS abuse is needed now. We will expect proper and meaningful action before the end of this session.

Submitted,

Blaine P. Friedlander

COPY FOR

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

Washington, D. C.
May 16,1978

WILLIAM BELCHER, et al,

Plaintiff(s)

v.

AULIN E. JOHNSON, et al,

Defendant(s)

CIVIL ACTION
NO. 2386-77.

DEPOSITION

of
PAUL E. EUBANK.
(resumed)

HARKINS-COLUMBIA REPORTING CO., INC.
SHORTHAND AND STENOTYPE REPORTING
300 — 7TH STREET, S. W.
WASHINGTON, D. C. 20024
5542870 5549050

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

WILLIAM BELCHER, et al.,
Plaintiffs

AULIN E. JOHNSON, et al.,
Defendants

Civil Action No.2388-77

Washington, D.C.

Tuesday, May 16, 1978

Depositions of PAUL J. EUBANK, continued, and HARVY HAMMER, witnesses of lawful age, taken on behalf of the plaintiffs in the above-entitled action, pending in the Superior Court of the District of Columbia, Civil Division, pursuant to agreement of counsel, before Frank P. Shelburne, a notary public in and for the District of Columbia, in Room 422, 1875 Connecticut Avenue, N.W., Washington, D.C., commencing at 2:25 p.m. on May 16, 1978.

APPEARANCES:

On behalf of the plaintiffs:

BENJAMIN F. AMOS, ESQ.
635 F. Street, N.W. Suite 700
Washington, D.C. 20004

On behalf of the defendants:

BLAINE P. FRIEDLANDER, ESQ.
2018 N. 16th Street
Arlington, Virginia 22201

On behalf of the witness:

LAWRENCE D. GARR, ESQ.
1875 Connecticut Avenue, N.W., Room 422
Washington, D.C.

Also present:

Charles Williams.

- - -

PROCEEDINGS

MR. AMOS: This is the deposition of Mr. Paul Eubank, Revenue Officer, and Mr. Harvey Hammer, the Chief, Special Procedures Staff, taken in the case of William Belcher and others versus AULIN E. JOHNSON, and others, Civil Action No. 2388-77, in the Superior Court for the District of Columbia, Civil Division.

Thereupon,

PAUL J. EUBANK and HARVEY R. HAMMER

witnesses of lawful age, were duly sworn by the notary public and, being examined by counsel, testified as follows:

DIRECT EXAMINATION:

MR. AMOS: Mr. Eubank, at our last meeting on the 3rd of May, 1978 here in the same building and the same not put it down, depending on what was discussed, what was resolved, that sort of thing. If it is pertinent to the case I will put it down.

AMOS Q Do you ever ask the individual who makes those notes why he made the notes?

EUBANK A Sure.

Q And is that reported anywhere in writing?

A Only if something subsequent to talking with him was different from what he put on the notes that he left me. It was just a matter of who came in, or what time did he come in, what did he have to say. And he said, basically what I put on the notes here. And I said, fine, you know, and that is it.

It is just to try and clarify things, if I don't understand what the notes were.

Q I don't see, as far as the original number 6 that we referred to here, to whom this Houseman had been talking that brought about his note that you should ascertain if this should be regarded as the Mount Jezreel Baptist Church, Incorporated, trading as the Day Care Center. What is up here on this page I do see notations indicating that someone contacted that Houseman.

A Let's see what he says. Somebody -- it is right here, a Mr. Trammell, Mrs. Johnson and a Mr. Johnson, came to the office, and they talked with the Houseman, or 2622, whoever that is, or was.

Q When you say that are you referring to beginning with one and going through 6 on this page?

A Right.

Q April 18, 1975?

A Yes.

Q And number 26-22, the opposite, right?

A Yes.

Q Now, you are saying that you believe that the reason he made this notation was because he had talked to these people?

A It could be. I don't know his reason for putting that last notation down there, but it looks like the others were simply information that those three people furnished him. And he just put it down as a comment, something that went through his mind that he is furnishing me to help me in my investigation.

Q Since we have been talking about it here today, has it come back to you what you did, with whom you talked, or whether you did anything like this?

A Did anything like what?

Q Like trying to ascertain?

A I did. I did ascertain. That was the whole point of the investigation.

Q You did ascertain what?

A That the Day Care Center and the church were separate entities.

Q That is the thing that you were telling me about at the last meeting on May 3 here?

A Right.

Q Did anyone else ever state to you that you should ascertain if this should be regarded as the Mount Jezreel Baptist Church, Incorporated, trading as the Day Care Center?

A I don't believe so.

Q You don't think so?

A No.

Q No one else ever mentioned it to you?

A No.

AMOS WILLIAM'S ATTY EUBANK

Q Did Charles Williams ever mention that to you?

A Yes, I think he did, come to think of it.

Q He did, didn't he?

A Yes.

Q Now, Mr. Eubank, you stated on the 3rd of May the prior liabilities.

~~Eubanks~~ Friedlander "Although he (Williams) presented himself as being from the REC council."

What does that mean?

Eubanks A Probably REG, Regional Council.

Friedlander Q "He (Williams) was told to secure a power of attorney before those matters could be discussed."

Now, what if anything, was done as a result of a member of the Regional Council staff coming down to talk to you about a tax matter?

Eubank A On that particular thing?

Friedlander Q Yes, sir.

Eubanks A On that case, nothing. But as I recall -- now, this is from memory, and it is not in that history. It is from another time, with the Inspection Division -- Mr. Williams came in another day.

Q After April?

A I believe so. But that would be with Inspection's files.

Q How many files were made up as a result of this case?

A I can't recall. I don't know.

Q Where would I be able to locate this Inspection

/

Baptist Church, the first being one where a group of people came in and talked to agent 2622.

A The current record we discussed, yes.

Q And that is Exhibit 3?

A Yes.

Q And also on that day, and entered upon the record at a later time, at 4:00 o'clock, Mr. Charles Williams entered the office and talked to agent number 2634.

A If that is the same date, yes, I recall seeing that in the record.

MR. AMOS: What?

MR. FRIEDLANDER: April 18, 1975.

BY MR. FRIEDLANDER:

Q Let me ask you this. Are you aware of any part of the regulations concerning employees of Internal Revenue Service being involved in cases to which they are not assigned?

A Definitely.

Q And what is that regulation, either by number, or what is your memory?

A It is in the U.S. Code, and it is also in your Code of Federal REgulations. It is in your Code of Conduct for Treasury Department Internal Revenue Service employees in relationship to, that they will involve themselves with matters that are of issue in front of themselves personally, whereby you would not be delving into the tax liability of an individual other than the party to which you are assigned the case for working.

Q What was the reason for that regulation, if you know?

A The privacy of the individual there. It is none of my business whether or not Paul Eubank has filed a return until I get a TDA to check on Paul Eubank.

Q And thereforeyou do not as a matter of practice look at a case unless it has been specifically assigned to you?

A In my case I don't look at a case unless it has been shipped into my shop, because I do not have any cases assigned to me personally.

Q But you have in your Baltimore field office a duplicate of the Washington field office?

A Yes.

Q And you would have revenue agents equivalent in status and position to Mr. Eubank and Mr. Dean here in Washington?

A Officers, not agents.

Q All right, officers.

A Yes.

Q And it would be conceivable that on an occasion you could walk into their office and make an inquiry, legitimate or otherwise?

A Yes.

Q And it would be conceivable that you could walk into the field office here in Washington and make an inquiry, legitimate or illegitimate?

A Yes.

Q And if you had a legitimate reason for inquiring about a case, that would be stated of record in the history of the case that you are required to keep?

A Correct.

Q And if someone in Revenue service comes in without right and makes such a request, that also is --

MR. WILLIAMS: I want to object.

MR. FRIEDLANDER: I don't know how you can object.

MR. AMOS: I am not going to object.

Let him ask his questions.

MR. FRIEDLANDER: Let me repeat it.

BY MR. FRIEDLANDER:

Q If someone comes in and represents himself from the Regional Counsel's Office, that also should be made a part of the record.

A Correct.

MR. AMOS: That is a hypothetical question you are asking, if someone should do so and so, is what you said just then.

MR. FRIEDLANDER: That was my question.

MR. AMOS: And then your answer to it was an answer to a hypothetical question.

THE WITNESS: If ti is a hypothetical question, it is a hypothetical answer, yes.

MR. AMOS: That is all I wanted to know.

BY MR. FRIEDLANDER:

Q There came a time, according to the record that was presented while you were sitting here, that one Charles Williams, a party to this case, on April 18, 1975 apparently entered IRS offices --

MR. AMOS: Just a second. You can't say apparently. Don't say apparently.

MR. FRIEDLANDER: All right. I will say that he did.

MR. AMOS: All right. You say that he did, and if this man knows he can answer. But don't say apparently; because if you do it means you don't know what you are talking about. Not that you do. But go ahead.

MR. FRIEDLANDER: I appreciate your confidence in me.

BY MR. FRIEDLANDER:

Q According to Exhibit 3, under the date of April 18, 1975 Charles Williams appeared in the District Regional Office and talked to agent 2634.

MR. AMOS: According to what?

MR. FRIEDLANDER:The history in Exhibit 3.

THE WITNESS: According to the statement in Exhibit 3, yes.

BY MR. FRIEDLANDER:

Q And to your knowledge in your review of the files has Charles Williams ever been assigned to this case?

A Charles Williams has never been assigned to our Regional Counsel's Office, period.

Q So there was no reason for him to make that appearance?

A No reason as far as I would know.

MR. AMOS: How does he know what reasons he had? I object to that question.

THE WITNESS: As far as I know he would have no reason.

MR. AMOS: You wouldn't know whether he had a reason or not.

BY MR. FRIEDLANDER:

Q Have you had any dealing with Charles Williams?

A Have I personally had?

Q Yes.

A No, since Mr. Williams is not a member of either our Regional Counsel staff, the Washington branch office or the Baltimore office, I have never personally dealt with Mr. Williams.

Q How many lawyers do you deal with in Internal Revenue?

A Over the past years there are approximately 15 at one given time, 15 to 20 regional counsel attorneys, including the Citizen Regional Counsels, George Rabil and Herb Seidman.

BY MR. FRIEDLANDER:

Q Mr. Garr, who is here today, is Regional Counsel and a member of that?

A He is a member of Mr. Rabil's staff.

Q And any lawyer with IRS who had a question concerning the files should deal through that office, is that not correct?

A That is correct, as long as the Regional Counsels had a file on that particular taxpayer.

Q Is there any occasion where someone from the main office or the front office, or whatever you call it -- the Chief Counsel's Office -- would have occasion to deal with anyone in a district office?

A No, they would go to the regional counsel's office and through them tothe district office.

Q And that is required by your regulations?

A SOP, standing operating procedure, as you follow your chain of command.

MR. FRIEDLANDER: I have no further questions.

REDIRECT EXAMINATION

BY MR. AMOS:

Q Are you a lawyer, Mr. Hammer?

A No.

Q And you don't work as a lawyer?

A The only time I ever took it upon myself to act as a lawyer was when I was in the service, and as a senior NCO I was defense counsel for enlisted personnel for all types of military crimes.

Q But in the Internal Revenue you have not acted as a lawyer?

Chairman RANGEL. Is this matter in litigation now?

Mr. FRIEDLANDER. It has never been in litigation. It is before this committee with a petition for redress of grievances. May I explain to the committee.

We are not without remedy. The fourth amendment to the Constitution says that the IRS should never do any of the things that they are accused of doing this morning.

Chairman RANGEL. I agree with you there. Are you saying that a member of the church who happened to be an agent for the IRS had litigation with the church and then intimidated the church, using the office of the IRS? Is that right?

Mr. FRIEDLANDER. That is correct. In fact, he is no longer a member of the church, and there has been a court ruling to that effect. We have been sued continuously. In fact, when IRS decided to punish him on one occasion for something that he did, without calling us in, the IRS had this hearing and agreed with him, instead of just fining him a half-day salary, that they would give him a letter of reprimand if he agreed not to sue IRS.

He sued IRS. He sued us, too. That is how we found out about it. He deliberately did not send us the documents that he filed with the court. When I made the demand for the documents, he sent them to me and all of this started to open up.

Chairman RANGEL. Are you a member of the church?

Mr. FRIEDLANDER. No, I have been representing them since 1966 in this matter. We have had, since 1979, four lawsuits by this man, the last of which was filed in 1981.

Chairman RANGEL. He is suing not as an IRS agent? He is suing as a former member of the church? Is that it?

Mr. FRIEDLANDER. That is correct.

Chairman RANGEL. But in the course of the suit you are alleging he used his office as a member of the IRS to harass the church?

Mr. FRIEDLANDER. That is correct, and he did it in this fashion. He found that the day care center had not paid all of the taxes that were due. Instead of coming to the day care center, he went to IRS.

Chairman RANGEL. You are also saying that the IRS is thoroughly familiar about the abuse of this person's office?

Mr. FRIEDLANDER. We have kept them apprised since 1967, when Mr. Williams first used IRS stationery to intimidate a witness in a civil case.

Chairman RANGEL. I believe it is your testimony that the extent that you know of the response of the IRS is to reprimand the person we are talking about?

Mr. FRIEDLANDER. They put a letter in his file and took it out 4 years later, according to the evidence that I have. What they have done with our complaints—we didn't make that complaint. That was one that they made. Our complaints have been stonewalled. I have attempted to talk to the various people and the response has been unsatisfactory.

Chairman RANGEL. Rest assured you will be getting a response. I don't know whether we have enough information.

As you know, these hearings have been set up so that the witnesses would be able to testify first and the administration will be responding to the alleged abuses. Now, in some of these cases, of course, just listing the names of the witnesses would alert IRS we expect to hear answers.

In cases where they indicate this afternoon that they did not have sufficient time to prepare response, we hope you will share with us those complaints that you have filed. This committee is prepared to assure you that we will be getting responses.

Mr. **Friedlander**. If it please the committee, on Saturday morning Mr. Williams called me to find out what I was going to testify to today. I didn't tell him. IRS told him. They are fully aware. They have a complete file.

I will advise this committee. Every document we have has been turned over to the IRS, every transcript we have. We have not heard from those people.

Chairman **Rangel**. Mr. Duncan?

Mr. **Duncan**. I have no questions.

Chairman **Rangel**. Mr. Crane?

Mr. **Crane**. I, too, want to thank the witnesses for testifying this morning.

Let me ask this question. I did not catch the name of the church member who was an IRS member?

Mr. **Friedlander**. He is a former church member. His name is Charles E. Williams.

Mr. **Crane**. He is still employed by the IRS, is that correct?

Mr. **Friedlander**. He is on the chief counsel's staff. On one occasion he pretended to be a member of the regional staff to interfere in a tax case to get Reverend Trammel to be responsible for the taxes. Nothing happened to him. That is in the transcript, too.

Mr. **Crane**. I thank you for your testimony.

Chairman **Rangel**. Thank you, Counselor.

[The following was submitted for the record:]

April 26, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

Dear Mr. Chairman:

I am aware that I am under no obligation to discuss my dealings with the Internal Revenue Service, and that I am voluntarily testifying before the Committee on Ways and Means, Subcommittee on Oversight, in a public hearing. I am also aware that my statement and any information disclosed by me will be placed in the Committee hearing record, a published public document, and could be used in a court of law. Further, I am voluntarily disclosing such information included in my testimony to the Committee for the purpose of this hearing and for inclusion in the hearing record.

Taxpayer Name [illegible]

Social Security Number 578-34-6299

Address 1550 Main St [illegible] 22030

Signature [illegible]

Date April 26, 1982

April 26, 1982

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Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

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I am aware that without this authorization the returns, return information, and taxpayer return information, as defined in Section 6103(b) of the Internal Revenue Code, of the Mt. Jezreel Baptist Church, are confidential and are protected by law under the Internal Revenue Code.

I authorize the Internal Revenue Service to disclose the returns, return information and taxpayer return information, as those terms are defined in Section 6103(b) of the Internal Revenue Code of the Mt. Jezreel Baptist Church for all tax years to any Member of the Committee on Ways and Means, Subcommittee on Oversight, or to any member of the Subcommittee's staff or counsel, for use in preparation for the Subcommittee's April 26, 1982 public hearing on the Internal Revenue Service's administration of the tax laws, for use during the Subcommittee's public hearing, or use in preparation or inclusion in any report or public document prepared by the Subcommittee which pertains to the public hearing.

I also authorize the Members, staff and counsel of the Subcommittee, and the Internal Revenue Service, to disclose this information either during the public hearings or after the public hearings to any person and in any manner that the Members, staff and counsel of the Subcommittee, or the Internal Revenue Service, deem necessary to clarify the hearing record.

I certify that I am a person authorized to act on behalf of the Church and have the authority to execute this authorization on the Church's behalf. The attached statements support my authority to act on the Church's behalf.

Name [illegible]
Title Att'y-at-law
Address 300 [illegible] Bldg [illegible] Main St [illegible] 22030
Signature
[illegible]

AUTHORIZATION

Be advised an organization known as the Mt. Jezreel Day Care Center existed on and before the 1st Day of May, 1975. It was thought to have been a non-profit corporation incorporated under the laws of the District of Columbia at the time it was closed down by order of the Internal Revenue Service in May, 1975.

The organization owed apporoximately $18,000.00 in taxes at the time it was closed by IRS and was making payments to reduce its obligation at the time of its closure.

Those of us who were entangled in the web woven by IRS would certainly have no objection to having our participation being discussed before the Committee on Ways and Means, Subcommittee on Oversight, U.S. House of Representatives, and, in fact, would be delighted to have IRS discuss its involvement. Be further advised that the undersigned has signed such assurances in the past to make such records available to Charles E. Williams, Esq. and IRS for their use and information. The day care center is defunct and there are no responsible officers who can sign.

Blaine P. Friedlander
for the
Mt. Jezreel Day Care Center

AUTHORIZATION

I, Marie Johnson, a citizen of the United States and resident of the District of Columbia do hereby authorize and request officials of the Internal Revenue Service to discuss the matter of their pursuit of a 100% penalty against me from 1975 to date.

I further authorize Blaine P. Friedlander, Esq. to present my views before the Committee on Ways and Means, Subcommittee on Oversight, U.S. House of Representatives.

Marie Johnson

Marie Johnson

Date: 4/26/82

The Joint Board of Deacons and Trustees of the Mt. Jezreel Baptist Church, Washington, D.C. met on Sunday, April 25, 1982 in the conference room at the Mt. Jezreel Baptist Church at 10:45 a.m. A quorum was announced.

It was moved, seconded and unanimously passed:

It is hereby resolved that the Internal Revenue Service is authorized and requested to discuss their files concerning the Mt. Jezreel Baptist Church before the Committee on Ways and Means, Subcommittee on Oversight, U.S. House of Represenetives on April 26, 1982.

It was then moved, seconded and unanimously passed:

It is hereby resolved that Blaine P. Friedlander, Esq., is authorized and instructed to present the views of of the Mt. Jezreel Baptist Church to the Committee on Ways and Means, Subcommittee on Oversight, U.S. House of Representatives,

And the Clerk of the Church is directed to hand a copy hereof to the Clerk of the aforesaid Subcommitte on Oversight.

Harold E. Trammell
Pastor

Andrew Fleming
Chairman, Board of Deacons

Robert L. Haigler
Chairman, Board of Trustees

I hereby certify that the above meeting was held in the Church in accordance with Church polity.

Carrie Stancil, Church Clerk

MAY 03 1982

BLAINE P. FRIEDLANDER
Mosby Building, Suite 309
10560 Main Street
Fairfax, Virginia 22030
(703) 385-2700

April 30, 1982

Honorable Charles B. Rangel
Chairman of Subcommittee on Oversight
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Rangel:

Please accept my thanks for the thorough and fair manner in which the Oversight Subcommittee and staff conducted the hearings on April 26, 1982. Mt. Jezreel Baptist Church officials join me in our appreciation for the clarity of presentations and definition of issues in the several convoluted circumstances discussed.

We would note that by the testimony of Mr. Egger that in 1967 Charles E. Williams used IRS stationery to intimidate a witness. Mr. Egger further stated that in 1977 Charles E. Williams was again found to have attempted to influence the due and proper administration of law. The Federal Code, Title 18 USC 1503 and 18 USC 1505, respectively declare such acts to be felonies.

Those IRS officials having jurisdiction over the above matters now appear to be in violation of 18 USC 4, Misprision of felony. Had the United States Code been followed in 1967, and IRS officials referred this matter to those with proper jurisdiction, the Mt. Jezreel Baptist Church members would have been spared sixteen years of unwarranted and wrongful suffering.

While we do not see the necessity of criminal prosecution at this late date, we do maintain the torts committed by IRS in violation of Constitution and code should be compensated forthwith.

It would be greatly appreciated by the members of the long-suffering Mt. Jezreel Baptist Church if your subcommittee would promptly and affirmatively endorse for approval the Church's Petition for Redress of Grievances which was on February 1, 1982 placed before the House. A copy of the Petition is attached hereto.

Action speaks loudly and granting of this Petition by the Congress will do much to demonstrate to the IRS that their abuse of power can be and usually is very expensive.

Sincerely,

Blaine P. Friedlander

BPF/raa

Enclosure: Petition for Redress of Grievances

cc: Robert Haigler, Chairman, Trustee Board
Mt. Jezreel Baptist Church

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL

IN REPLY REFER TO:

FEB 23 1982

REC'D FEB 26 1982

The Vice President
United States Senate
Washington, D.C. 20510

Dear Mr. Vice President:

The Petition for Redress of Grievances, by the Pastor and Trustees of Mt. Jezreel Baptist Church and Citizens, which requests relief from alleged abuses by the Internal Revenue Service, has been received by this Office.

An investigation of the several alleged incidents has been initiated. This office will provide you with additional information when the investigation has been completed.

Sincerely yours,

Paul Trause
Paul K. Trause

OFFICE OF THE VICE PRESIDENT
WASHINGTON

March 4, 1982

Mr. Blaine P. Friedlander
10560 Main Street, Suite 301
Fairfax, Virginia 22030

Dear Mr. Friedlander:

Upon receiving your Petition for Redress of Grievances, our office contacted the Inspector General of the Department of the Treasury on behalf of the Mt. Jezreel Baptist Church. Attached is a copy of the Inspector General's interim reply. As soon as the final report is received, our office will be back in touch with you again.

Sincerely,

Frederick M. Bush
Deputy Chief of Staff

Attachment

BLAINE P. FRIEDLANDER
Mosby Building, Suite 301
10560 Main Street
Fairfax, Virginia 22030
(703) 385-0567

March 6, 1982

Frank Godfrey
Executive Assistant
Office of the Speaker
House of Representatives
United States Congress
Washington, D.C. 20515

Re: Petition for Redress of Grievances
of Mt. Jezreel Baptist Church

Dear Sir:

Enclosed you will please find copies of correspondence with the Vice President's Office dealing with the Petition your office received on February 1, 1982, and which petition you advised would be brought to the attention of the Speaker on February 22, 1982. The correspondence is self-explanatory.

We would appreciate your prompt advice of each and every action taken with respect to the petition. Please accept our thanks in advance for your prompt reply.

Sincerely,

Blaine P. Friedlander

BPF
Encl.

cc- Frank Wolf
Trammell et al

PETITION FOR REDRESS OF GRIEVANCES

TO:

The Honorable Ronald W. Reagan
President of
The United States
The White House
Washington, D.C. 20500

The Honorable George R. Bush
Vice President of
The United States
President of the Senate
Capitol Building
Washington, D.C. 20510

The Honorable Thomas P. O'Neill
Speaker of
The House of Representatives
Capitol Building
Washington, D.C. 20515

JURISDICTION

Pursuant to the First Amendment to the Constitution of the United States, we, the undersigned, individually, and on behalf of the Mt. Jezreel Baptist Church of the City of Washington, District of Columbia, now come before our elected public servants, in exercise of our absolute right to petition for redress of grievances, to have our grievances heard and to receive compensation and satisfaction therefor.

That we have such a right enumerated among the many rights set forth in the United States Constitution does no more than memorialize the eternal right of free people everywhere to petition those duty bound to represent them. Thus, we approach you.

This matter arises from the assault upon Constitutional rights by employees at the Internal Revenue Service who have not been properly supervised. In the past, The President of the United States, The Secretary of the Treasury and the Internal Revenue Commissioner have failed to investigate abuse of the taxpayer at the hands of Internal Revenue and seemingly have allowed tax laws to be enforced by whim and caprice. Contrary to their oaths of office, the several members of Congress have failed to provide proper oversight. As one truly brave man, George Hansen, M.C., wrote:

> "The story of the Internal Revenue Service is a history of a tax collection agency drunk with power, ruthlessly smashing dissent among its own personnel and brazenly roughing up taxpayers at will. The IRS defies and intimidates its Congressional creators to go virtually unchallenged in its blatant illegal exercise of powers against the American public."

This petition is a cry from injured officials belonging to a relgious group, seemingly protected by our Constitution. For sixteen years, the techniques of Internal Revenue have been visited upon us and have caused us grief. Despite our anguish, we love our nation dearly; our freedom more and, thus, respectfully require that you act upon this -- our petition, and redress our grievances.

GRIEVANCE

STATEMENT OF FACTS

In 1966, Charles E. Williams, an attorney on the staff of the General Counsel of Internal Revenue, applied for and was admitted to membership of the Mt. Jezreel Baptist Church, a religious body worshipping at Fifth and E Streets, S.E., City of Washington, District of Columbia. From that year until the present the said Charles E. Williams has engaged certain members in a curious course of litigation, which litigation your petitioners verily believe reflects the teachings of the Internal Revenue Service.

During the early stages of litigation, Williams used Internal Revenue letterhead while writing to a witness for the church in the civil litigation, not involving

Internal Revenue. The witness, in fear of being involved with IRS sought to be excused. One of your petitioners made a complaint to IRS. While the abuse ceased, we were never appraised of IRS actions.

The following year, 1967, Williams did, without right or authority, interfered with church financial activities. He was removed, forthwith, as a member of the church.

Williams has since used the resources of Internal Revenue Services,and his position therein, in an attempt to regain his membership, and to harrass the members of the church. When this failed, and He was given a letter of reprimand, he used civil litigation against members of the church in an attempt to adjust his personnel record at Internal Revenue.

At no time did the officials of Internal Revenue Service ever take appropriate action. Your petitioners sincerely feel the officials of Internal Revenue Service assisted Williams in covering his activities in order that Internal Revenue techniques not come to public attention.

In 1970, Charles E. Williams instituted a law suit to re-establish his membership in the church. Finally, after extensive litigation and following two elections whereby the members of the church voted not to include Williams as a member, Williams dismissed his suit with prejudice. The issue of his membership was to be finally determined by binding arbitration before a panel of five, all of whom where to be chosen by Williams. The panel decided the issue adverse to Williams.

During the pendency of this action, and unbeknownst to your petitioners, Williams, in excess of his duties and contrary to Internal Revenue regulations caused the

Internal Revenue Service to bring an action against the Mt. Jezreel Baptist Church Day Care Center, an entity not connected with the church. It also appeared that Williams sought to convince IRS to make the minister pay the taxes allegedly owed. These facts came to light several years later when Williams sued in the matter of Williams v. Blumenthal et al, Civil Action 79-0093, filed in the United States District Court for the District of Columbia. The record Williams produced showed that prior to 1976, Williams pretended to IRS that he was actively involved in the affairs of the Mt. Jezreel Baptist Church as was seeking to bring the force of the Internal Revenue Service to bear upon the officers, directors and members of the Mt. Jezreel Baptist Church. During this period, and contrary to the Constitution of the United States, IRS seized the property of a member of the church. Later developments later showed the IRS acted in error and had to return the funds taken. IRS has not seen fit to explain its action.

During the proceedings of Williams v. Blumenthal et al, supra, it also came to light that Williams had asked IRS permission to file a suit against certain members and officers of Mt. Jezreel Baptist Church, pretending to be an active member of the church and stating that said members and officers of the church were mishandling church funds. IRS gave its permission, and Williams became a party plaintiff in the matter of Belcher, et al v. Johnson et al, CA 2388-77 filed in the Superior Court of the District of Columbia. The case was subsequently dismissed for want of prosecution. On appeal, the panel noted that Williams was not a member of the church.

During the pendency of Belcher, your petitioners were not aware that our involvement in litigation was an attempt by Williams to adjust his personnel record. Further, we did not know that Charles Williams and another IRS attorney were being investigated by IRS for improper interference in the tax matter referred to above. Nor did we know that the reason for our involvement in the Belcher matter was an attempt by Williams to set aside the reprimand. This revelation came in 1979 during the Blumenthal case. We discovered for the first time that Williams had been reprimanded as a result of an arrangement whereby Williams agreed not to appeal the reprimand and IRS agreed to withdraw its proposed suspension. At that time, we had been puzzled by the inadequacy of the agreed disposition, for we thought sterner measures were required. The trial court dismissed Williams' Blumenthal case with a sharp opinion. Williams dismissed his subsequent appeal.

At the close of Blumenthal, the attorneys for IRS and the Department of Justice were told by representatives of the church that Williams' actions were no longer tolerable and that we expected the Department of Justice and the IRS to insure that our rights were protected in the future. Notwithstanding this request, IRS gave Williams permission to sue officers and members of the church on two occasions in 1980. We believe the purpose of these two actions, Williams v. Hubert and Williams v. Dunlap was to adjust IRS records, for the allegations were the same as those tried in Belcher. After responding to over 300 interrogatories, none of which were pertinent, the case came on for trial on June 24, 1981. After and hour-and-one-half of trial, during which period the trial judge repeatedly asked Williams to produce solid evidence, Williams dismissed both cases with prejudice.

While Belcher, Hubert and Dunlap were pending, it came to the attention of the petitioners that seven officials of the church were being audited by IRS, and the minister was undergoing his annual IRS audit. Upon our complaint, we were advised by Internal Security, IRS, there was no evidence of impropriety. We do not doubt the honesty of the investigation, but wuite frankly, we do not believe what we have been told. We understand that only two percent of the population in audited, and cannot understand the amazing coincidence of seven of fifteen members of the church being audited at the same time. Perhaps we are misreading the evil, but the appearance is substantial. In short, we do not trust IRS.

On April 2, 1981 we attempted to meet with the Chief Counsel, who, being busy, relegated this matter to an assistant. We felt we were being stonewalled. After the last dismissal of Williams' cases, we attempted to meet with Roscoe Eggers, the Commissioner. His office personnel was unacceptable, rude and our reception by his staff intolerable. A secretary who refused to be identified said, "Mr. Eggers did not care about your problem, he was too busy."

This petition emerged after watching the television presentation concerning IRS abuses on "Sixty Minutes" in November 1981. It dawned upon us that we were given the "usual treatment" and that IRS was the master, not the servant.

Let it be known that we will no longer tolerate the wrath and abuse of IRS upon us or any other citizen; that we are concerned that proper oversight has been neglected by those with responsibility.

THEORY OF THE PETITION

We strongly suggest that Charles E. Williams conducted his personal litigation against your petitioners as if we were the victims of the Internal Revenue Service. In fact, during the course of the many law suits, Williams commented what he was doing was merely normal practice; and, had we been before the tax court, he would have prevailed. Williams honestly believes he has a right to harass the citizens. We verily believe that Williams is doing only what he had been taught by IRS.

Secondly, it should have been obvious to the members of Internal Revenue Service, particularly since 1979, when they were put on notice that Charles E. Williams was unable to perceive the consequences of his actions and that he suffered from a mental defect or disease. His actions arising out of the illness or defect aforesaid caused injury to the grievants in that Internal Revenue Service and the Department of Treasury should, if they do have programs designed to care for the illness of its employees, to have required treatment; or if they do no have such programs, to take care that the employees do not render harm to the public.

The defense of Internal Revenue Service has been two-fold. First, they use their powers to stonewall and prevent the truth from being known. Secondly, they protect their employees from public scrutiny in order that the true tactics of Internal Revenue Service cannot readily be discovered by the general public. These tactics involve the ignoring of the basic fundamental Constitutional rights supposedly enjoyed by all citizens.

Because the Internal Revenue Service failed to act properly and promptly, they have cost those associated with the church numerous hours and expenses. The fault cannot be said that of the Internal Revenue solely. The two Houses of Congress, each with an oversight committee, have failed to properly execute the duties required by law; and the President of the United States, and the Secretary of Treasury have likewise failed to exercise proper control.

CONCLUSION

We respectfully request that the Speaker of the House instruct the House Ways and Means Committee, or such other committee having jurisdiction, to propose a private bill for the benefit of the Mt. Jezreel Baptist Church in the sum of one million dollars, said bill to be enacted and paid forthwith;

That the Commissioner of Internal Revenue, n/ the Chief Counsel and all senior persons with primary supervisory power be immediately removed from office;

That the broad sweeping power of Internal Revenue Service be cancelled forthwith and that all governmental e/ agencies be required to obey the Constitution of the United States;

That meaningful tax reform be forthwith enacted in order that we have no further need for the oppressive methods of Internal Revenue Service; and

That immediately upon receipt a representative from each of the entities named contact the undersigned in order that a prompt time table be established for the consideration of the grievance in accordance with the commands of the Constitution of the United States.

Respectively submitted,

HAROLD E. TRAMMELL

BALIS A. DUNLAP, JR.

YVONNE L. SMITH

Andrew T. Fleming
ANDREW T. FLEMING

GEORGE A. BROWN

JOHN ANTHONY DAVIS

Bernard A. Wade
BERNARD A. WADE

ELDRIDGE SPEARMAN

ROBERT HAIGLER

ROBERT BRADSHAW

RICHARD WILSON
Pastor and Trustees of
Mt. Jezreel Baptist Church
and Citizens

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Ways and Means
Subcommittee on Oversig

COMMITTEE ON
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WAYS AND MEANS

June 28, 1982

The Honorable Charles B. Rangel
Chairman
Subcommittee on Oversight
Committee on Ways and Means
Washington, D.C. 20515

Dear Mr. Rangel:

Thank you for your letter of June 14, 1982, asking my response as to the correctness of Roscoe Egger's statement, including its validity and clarity of the facts then presented and discussed. I am pleased to respond as follows:

(1) On page 149, line 3477-3480 contains an alteration of the testimony. You will note that Egger testified that a reprimand is removed from the file depending on the grade of employee. We trust you will insure that the testimony remain of record and that your staff will secure the secret regulations alluded to by the Commissioner.

(2) Page 150, line 3500-3501. Here Egger was commenting upon the ongoing investigation. He now seeks to strike the words, "there that should be almost immediately". A review of my statement and testimony will show the investigation referred to was completed August 1981. It is my further information that it was forwarded to Egger prior to his testimony by his Inspection Service. Thus we believe this deletion most significant and interesting.

(3) Page 147, line 3433-39. This testimony is not correct. The matters of which we complain had everything to do with IRS.

1. The IRS Service, not the church, found Williams involved in a tax case attempting to pretend the church and Pastor Trammell owed taxes. The IRS did not tell us about it and made every attempt to cover it up although it was a violation of the Felony Code of the United States. In my testimony, I attached portions of

the transcript of the Court proceedings of 1978 where this came to our attention for the first time, albeit the IRS had knowledge in 1975. Please refer to my testimony and Petition for Redress of Grievances.

2. Page 148, Lines 3443-3444. The testimony may be an inadvertent misunderstanding to the effect that Charles Williams was a member of the Mt. Jezreel Baptist Church. For a short period of time in 1966 until April 1967, Charles Williams was a member of the church.

3. Page 148, lines 3457-3465. Mr. Egger misstates the facts and the committee has before it the transcript where Charles Williams' attorney makes it very clear that Charles Williams not only instigated the involvement of IRS but caused IRS to go after the church when they were not involved under any thoery. Thus, where Egger testified that, "IRS' investigation did not arise because of any interference on the part of Mr. Charles Williams" either he or his staff are attempting to mislead this body. I suggest that you look at the pages of the transcript attached to my statement for William's testimony he did interfere. We would be pleased to provide the entire transcript if that is your wish.

4. Page 146, line 3457-3473. Egger is confused. The matter of the misuse of IRS' stationery occurred in 1967; the matter of the interference of the tax matter was in 1975. They are separate and distinct.

5. Page 149, lines 3471-3479. The term "usual practice" refers to the reprimand of the procedures following the reprimand, is illustrative of the danger of allowing IRS to discipline its members. One point is abundantly clear; Williams committed two felonies, as we read the code. The first was pursuant to the obstruction of justice code, and the second makes it a felony for an IRS official to use the tax laws to harrass the citizens. The actions of IRS are a misprision of a felony. Thus, the IRS compounded the crimes and is equally guilty with Charles Williams.

6. Page 154, line 3612-3625. While we are discussing the crimes of IRS, Congressman Duncan asks the policies of IRS when there was a violation. Egger's answer was evasive. The fact is that very few IRS employees who violate felony statutes are prosecuted criminally. There is an immediate need for a thorough investigation of IRS in this

regard. They apparently have an internal judicial system similar to the gestapo, in that they enforce the laws of the United States by a double standard. The IRS predicates fear upon the same principle that the gestapo used to instill fear in the citizens of Germany during the terror of Adolph Hitler. This lack of control has cost the Mt. Jezreel Baptist Church 17 years of grief. It is clear to us,as it should now be clear to you, that the top officials of IRS think themselves above the law and that their agents may commit felonies with impunity. It is our position that Charles Williams' actions were felonies under the code. He was tried in secret and punished by reprimand, not because he committed the felonies, but because he was caught.

7. Page 153, lines 3583--page 154, line 3597. Here Rebein was asked how the church's tax problems were generated. He failed to answer the question and went off on a tangent. When we made the inquiry concerning the abnormal number of audits of church members in the Spring of 1981, we were given the same answer by the investigator. We didn't believe the response then; we don't believe it now. There is a reference in our petition for redress of grievances. What we have not seen, and apparently will not be available for inspection, is the data upon which the IRS makes its statement. We do know the minister is audited annually and members of the Board of Trustees are audited at a rate in excess of 50% of their members. The national average for audit of their income bracket is less than 2% and by the IRS' own figures, approximately 1.6%. Rebein's response is an unsupported conclusion contrary to IRS' own published data. Rebein's answer was that there was a connection but he would have to check to be sure. Rebein has not come forward with the information, although two months have passed. It is our belief that IRS had the data in their files when they addressed the Congress and have no intention of telling us the truth at the present time.

Let it be clear that if our Government is to succeed, these investigations should not proceed at the snail's pace mandated by IRS, nor will our system of checks and balances work if we rely on the IRS to check themselves for they refuse to do so openly and fully.

We have been damaged by our public servants and we expect prompt payment, as set forth in our petition.

Sincerely,

Blaine P. Friedlander

BPF/raa

Chairman **Rangel**. Mr. Robert Graham?

Mr. **Graham**. Yes, sir.

Chairman **Rangel**. As I pointed out, Mr. Graham, Congressman Schulze asked us to convey his regrets at not being here. He has been called to the White House. But he assured us that he asked you to come here on behalf of the committee. We thank him and you.

STATEMENT OF ROBERT GRAHAM, HOLLAND, PA., THE COMMITTEE FOR CONSTITUTIONAL TAXATION

Mr. **Graham**. First of all, I would like to thank the distinguished committee, indeed, for this opportunity to address you. I am speaking not only for myself, but for the Committee for Constitutional Taxation.

Over 40 of our members have taken the time off today to come down to place this statement on the record for your consideration because we feel that maybe it is about time you heard what the people are saying.

My statement is this: Adolph Hitler would have loved the IRS. This Government agency has done more to destroy freedom in the United States than the Ayatollah.

We are all Americans held hostage by the IRS. If ever our Nation needed protection from a subversive force, it needs it now.

You, the Congress, have sat knowingly by for too long and allowed this enormous tail to wag the congressional dog. Fear does make cowards of us all, but it is your duty to get a hold of this crazed animal and destroy it before the IRS destroys all America.

Most of the employees of the IRS have the Lieutenant Calley mentality and hide behind the cliche, "I am only doing my job," but isn't that exactly what the stormtrooper, the Nazis said when they put fellow human beings into ovens?

Our taxing system has been a fraud from its inception. It is a national disgrace. It can be construed as anything but volunteer compliance. Americans are having real property confiscated, bank accounts surreptitiously attached, wages garnished by the IRS, all without due process.

Because of IRS lies and perjurous testimony under oath in Federal courts, Americans are thrown into prison under the guise of contempt of court, without a jury trial, for failure to present information which heretofore had been lauded as voluntary.

Needless to say, real Americans are no longer volunteering, but they are joining the patriotic movement to fight tyranny IRS style. It prevails upon the Government, not the IRS, to provide incentive that will reinstate the desire to voluntarily support this service we want, according to the Constitution, and the deeds we, as Americans, wish to be done.

I believe that if Sam Adams and Thomas Jefferson were standing here in this room, they would call me fellow patriot. I wonder what they would call you and the IRS.

I consider it my obligation and responsibility to express in the strongest terms the discontent of those who have charged me to do so. It is our wish that you dissolve the IRS, which has inflicted a quasi martial law on the American people.

This lawless body of our Government has run roughshod over our constitutional rights as citizens, disregarding the hard working middle American, the backbone of the Nation. These people have had enough.

One of the most serious problems I have encountered since becoming involved with the tax reform movement is keeping angry, hurt people from becoming violent. Retaliation, revenge, or whatever you want to call it is difficult to suppress, if acted on, it is impossible to erase.

Americans are being brutalized by other Americans whose self-righteousness makes them determined to enforce the IRS Code. This is a code, it is not a law.

To validate this statement I presented exhibit 1, which you have a copy of, which proves that U.S.C. 26 is not legally enforceable, and exhibit 2, which proves that the IRS violates the law by using the Federal Register. The IRS is prohibited under section 1505 from usurping the legislature by directly placing anything on the Federal Register.

One of the worst violations of the Constitution is the entrapment of U.S. citizens by the use of the W-4, which in most cases is a requirement for employment, as well as requiring the employer to become a tax collector without just compensation.

The IRS violated the fifth amendment by failing to read this citizen his rights, files a complaint with a Federal judge who never tells the jury that the IRS form W-4 is illegal unless it has a *Miranda* warning on its face.

Now, since the executive and judicial branches are in bed together, our only hope is the legislative branch. Now, you, the legislative branch, have voted yourself virtually audit proof by the passage of the black lung bill.

At first glance Americans are likely to become angered by your tax-free status. However, upon reconsideration the possibilities your audit-proof status has placed in your hands a most powerful weapon. You are now free to strike out against the gestapo tactic used by these power-crazed bounty hunters.

Nowhere in the free world does this terroristic ritual exist. It is normal or sane that one small group of Americans should or would be allowed by their government to pursue the producers in American with a vengence?

If we, the people, controlled our Government, this would be the land of the free and the home of the brave. But the people in the Government have changed everything until now we, the American people, live in a land of the controlled and the home of the slave. We demand a limit on taxation, for taxation without limitation is tyranny.

What you are hearing today, gentlemen, is the thunder. Can the lightening be far behind? The IRS was formed in 1952. In 30 years these locusts have scourged and plagued our country. It is time the IRS was abolished. They refuse to answer simple questions or letters.

One, what is an income tax liability? Where is it in the IRS Code?

Two, am I a person required to file and why am I?

Three, what page in the IRS Code does the word "wages" appear?

Four, is filing a tax return mandatory or voluntary?

Five, why isn't there a *Miranda* warning on the 1040 form? You must sign under threat of perjury.

Six, what about the W-4 form? How can these forms be used in a criminal case without the *Miranda* warning in total violation of the constitutional rights of a trusting and unsuspecting America?

Seven, how can a temporary Treasury regulation such as 37.3402-1, which is an administrative regulation lacking the force of authority, be legal and lawful?

Eight, please define the word taxpayer. Would you please cite the law that supports that definition?

Nine, is the tax on my income an excise or a direct tax? If it is an excise tax, please state the privilege for which I am being taxed and please cite the law which supports your statement.

Ten, what is the money of the account of the United States, and how much of it equals $1?

Eleven, what authority gives the IRS to place outright lies on the Treasury enforcement communication system as shown in exhibit 3? That is this one, gentlemen. How do I find out the other lies which they have blackened out on this thing, and how do I remove this drivel from my file to avoid further embarrassment to my family and further custom crossing?

I wish you would question me on this one because this is so horrendous. We, the American people, know that you, our representatives in Congress, are aware that these abuses of our freedom are taking place every day. We want answers to the questions which we have raised today. We are not "illegal tax protesters," as the IRS has labeled us.

By the way, I have been called in the newspaper by the head of the IRS a snake oil salesman. If I had the oil to kill the snakes, they would be gone.

We are proud Americans who will defend our country from all enemies, foreign or domestic. You have a golden opportunity to prevent the second American Revolution. That choice is yours. Which side are you on—theirs or ours—for there can only be one winner.

We are either free sovereign citizens or we are tax slaves. A famous American patriot once said, "Give me liberty or give me death." It took me a long time to understand that, that without liberty we are dead.

I thank you, gentlemen. Please join our side.

Chairman RANGEL. Thank you, Mr. Graham, and also the group of citizens that you brought down in support of your testimony.

Mr. GRAHAM. I would like to add one thing, Congressman Rangel. It is going to take somebody that has shown the ability that you did in the 2d Army, that's the type of fighting it is going to take.

I hope you have some of that left, because if you could hear, I am sure you heard what these people were saying here. If you think back to Korea, what enemy were we fighting? You distinguished yourself there, Congressman. I pray to God you do likewise here.

Chairman RANGEL. It is easier to fight the Communist Chinese than it is IRS.

Mr. GRAHAM. Pardon me?

Chairman RANGEL. This may be more difficult.

Your group, the Committee for Constitutional Taxation, that is a national group that is based in——

Mr. GRAHAM. We are part of the national network group. At last count we feel that there are 22 million people involved in this thing that are either not filing or filing some sort of a fifth amendment return. That is the reason we are here. We want to work with you.

Chairman RANGEL. In addition to the violations of people's constitutional rights, your organization has a problem with the form and as to whether or not there should be a tax at all. Is that it?

Mr. GRAHAM. Congressman, why can't you—not them. They walk into my office with their guns out. I can't even get into this with them. They threw me in jail for 31 hours on trumped-up things. They put me in a State prison. You see, they work with the judiciary to such an extent that it is horrendous.

Why can't you, your committee, come up with one form that you can give the five CPA's that they can put them in five different rooms and all of them come out with the same answer? Why can't that be done?

I contend that the IRS is not a collection agency, it is a control agency, and it is being used by certain people within the Government to do just what it is doing right now.

This is wrong. It is going to stop. We are asking for your help right now because it is like I put a sign up outside——

Chairman RANGEL. We are going to help. Many of us in the Congress believe that they are supposed to collect the taxes, and without the taxes, Government can't continue. Whether governments should continue is a different question.

Mr. GRAHAM. I can tell you an answer to that. Let's go to a flat tax, paid to the local people, the local, not the Federal Government, paid locally and—I ran this through the computer——

Chairman RANGEL. Let me ask this, Mr. Graham: Is this the thinking of the group, or do you believe this should be the alternative to the Internal Revenue Service? I just have to know for the record.

Mr. GRAHAM. Congressman, I believe that the majority of the people want to see the end of the IRS and the income tax. It is unconstitutional. They want to go back to constitutional taxation.

Chairman RANGEL. Wait, wait, wait. The majority and you believe that there should not be a Federal income tax?

Mr. GRAHAM. We should have constitutional taxation.

Chairman RANGEL. Please, not here. There should not be a Federal income tax and there should not be an Internal Revenue Service or anything like it to collect the tax?

Mr. GRAHAM. I think it is a little bit deeper than that. Congressman, the income tax—we have done a great deal of study on this, the intent of it, and I implore you to pick up the code and have the IRS tell you who is an employee.

First of all, an employee is, by their definition, is a corporation. You see, wages aren't taxable. That was abolished in 1944.

Chairman **Rangel**. No questions will be answered at this time. You have made it clear in your written statement and as well as your oral statement. I assure you the legal questions, constitutional questions that you raised, that we will be presenting you with responses from the Government.

But I just want to make certain that things that were not included in your testimony were stated for the record. You challenge the right for the Federal Government to enact a tax in the first place, much less to have the Internal Revenue collect them.

Mr. **Graham**. Sir, we have here, in a copy of the Constitution—sir, I strongly suggest that the 5 minutes will not serve the purpose of solving the problems of the country. I am sure you are aware of that.

Because it is much bigger than—this is the United States right now. I am talking about a second American Revolution. Congressman, they are out there. What I am trying to do is solve this thing peacefully because there are people within the group right now who have been so hurt they want to do it militarily.

So, right here on page 1554 of the Constitution of the United States of America, and this is annotated of cases decided by the Supreme Court, 72, it says in here—

> The 16th amendment confers no new power of taxation, but simply prohibits the previous complete and plenary power of income taxation possessed by Congress from the beginning from being taken out of the catalog of indirect taxation to which it inherently belonged.

Chairman **Rangel**. Did Mr. Schulze leave any questions that he wanted specifically to ask?

Mr. **Graham**. Here is a letter from President Taft to talk about the intent of Congress when they put the 16th amendment in. It is unconstitutional. It is illegal.

Mr. **Duncan**. How would you provide for the national defense if you did away with all revenue?

Mr. **Graham**. We could do that constitutionally, sir.

Mr. **Duncan**. If you do away with all revenues to the Federal Treasury, how would you fund national defense? You advocate doing away with all revenues coming into the Federal Government, how would you fund national defense?

Mr. **Graham**. I didn't say do that. I said the answer to that is a flat 10 percent, paid locally. We would pay it to our local people, the local people would buy from the States what goods and services they need.

At that particular point, we could then buy from the Federal Government what we need. If we happen to think what we should do in Washington right now, this is my own belief, that you could get rid of 50 percent of the people getting a green check here and just abolish it and don't do it just every other one, and do it with every other law, because we don't really need it.

Mr. **Duncan**. I agree with you to a point on the green checks, but I don't on national defense. If we followed your advice and waited on the States or local governments to give back so much money to the National Treasury for national defense, I don't think you believe that.

Mr. **Graham**. I don't want to get into a discussion on national defense, because I feel—would we be in any worse danger with the atrocities we heard here if the Russians were here?

Mr. **Duncan**. I don't agree with the things that went on——

Mr. **Graham**. I know what happened with me.

Mr. **Duncan**. With what you advocate, they would be here if we followed your advice by doing away with national defense.

Mr. **Graham**. I didn't say that.

Mr. **Duncan**. In essence, you did.

Mr. **Graham**. No, sir. I can remember, and so can Congressman Rangel, it was a War Department, we never lost a war. Now, we have a damned Defense Department, and we have not won one.

Mr. **Duncan**. I don't want to get into an argument. Thank you.

Chairman **Rangel**. On behalf of Congressman Schulze and the committee and subcommittee, we thank you for taking time out to testify as well as the group that you brought with you, your specific constitutional and legal request from the IRS will be provided not only publicly but the committee will send it to you.

Mr. **Graham**. One thing, could I address Mr. Duncan? We have the same beautiful problem, a load of grandchildren. When you are up there, I have seven, I think you have eight, is that right?

Mr. **Duncan**. I beg your pardon? I hope I will have eight by May 1, I have seven now.

Mr. **Graham**. I have seven children and six and a half grandchildren and when my kids can't afford to buy a home in the richest country in the world, there is something wrong.

Mr. **Duncan**. I agree with you, but we cannot depend on local government to provide for defense.

Mr. **Graham**. My son works at the Air Force and he sees them blow holes in the top of the planes and I think your committee did a study on the mentality of the people in the Army and you came up with an IQ of 60.

Mr. **Duncan**. I don't think that belongs in this committee. Thank you, sir.

[The following was submitted for the record:]

April 26, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

Dear Mr. Chairman:

I am aware that I am under no obligation to discuss my dealings with the Internal Revenue Service, and that I am voluntarily testifying before the Committee on Ways and Means, Subcommittee on Oversight, in a public hearing. I am also aware that my statement and any information disclosed by me will be placed in the Committee hearing record, a published public document, and could be used in a court of law. Further, I am voluntarily disclosing such information included in my testimony to the Committee for the purpose of this hearing and for inclusion in the hearing record.

I am aware that without this authorization my returns, return information, and taxpayer return information, as defined in Section 6103(b) of the Internal Revenue Code, are confidential and are protected by law under the Internal Revenue Code.

I authorize the Internal Revenue Service to disclose my returns, return information and taxpayer return information, as those terms are defined in Section 6103(b) of the Internal Revenue Code for all tax years to any Member of the Committee on Ways and Means, Subcommittee on Oversight, or to any member of the Subcommittee's staff or counsel, for use in preparation for the Subcommittee's April 26, 1982 public hearing on the Internal Revenue Service's administration of the tax laws, for use during the Subcommittee's public hearing, or use in preparation or inclusion in any report or public document prepared by the Subcommittee which pertains to the public hearing.

I also authorize the Members, staff and counsel of the Subcommittee, and the Internal Revenue Service, to disclose this information either during the public hearings or after the public hearings to any person and in any manner that the Members, staff and counsel of the Subcommittee, or the Internal Revenue Service, deem necessary to clarify the hearing record.

Taxpayer Name [illegible]

Social Security Number [illegible]

Address [illegible]

Signature

Date [illegible]

COMMITTEE FOR
CONSTITUTIONAL TAXATION
P.O. Box 1776
Richboro, Pennsylvania 18954
(215)

RECEIVED
JUN 23 1982
Ways and Means
Subcommittee on Oversight

June 18, 1982

Committee on Ways and Means
U. S. House of Representatives
Washington D. C. 20515
Charles B. Rangle, Chairman

Dear Mr. Rangle;

Before appearing as a witness at the Congressional Oversight Subcommittee Hearings on April 26, I made it abuntantly clear to Congressman Schulz, that my main purpose for testifying was to seek clarification of the IRS rules as published in their own manual, and the obvious conflict that occurs with the United States Constitution.

Congressman Schulz assured me that these questions would be answered by Commissioner Egger at that time. Congressman Schulz was not even in attendance and the questions were ignored by both the Congressional committee and Commissioner Egger; Although the answers would have proven that the manual contains the very foundation of the atrocities practiced by the IRS and the Unconstitutionality of them.

You may recall, as my testimony drew to a close, you asked me if I had any personal experience with IRS injustice. This was answered by a slight reference to an ongoing battle to effect Constitutional taxation, a 31 hour ordeal in jail, and a reiteration that my reason for testifying was more in behalf of all Americans who suffer the wrath of the IRS rather than my personal experience; that I and my committee would be content to have the questions answered at this time.

When presenting his testimony, Mr. Egger chose to ignor the questions I posed; but he did, in the presence of your committee, in the presence of his entourage of agents and bodyguards, in the presence of two thirds of the fifty members of the Committee for Constitutional Taxation who accompanied me to Washington to present the questions in their behalf, announce that,although Mr. Graham did not have much in the way of complaints against the IRS, He had learned during the luncheon recess, that the charges against Mr. Graham had been dropped.'I IMMEDIATELY STOOD AND STERNLY ACCUSED MR. EGGER OF BEING A LIAR, I, SIR,HAD NOT BEEN INFORMED OF ANY DROPPED CHARGES... YOU TOLD ME I WOULD HAVE AMPLE OPPORTUNITY TO RESPOND ONCE I RECEIVED THE TRANSCRIPT. MR. RANGLE...THAT STATEMENT DOES NOT APPEAR ON MY COPY OF THE TRANSCRIPT. How can I rebut a statement that has been deleted? What recourse do I have against such an occurance? Why was this statement left out of the transcript? Can you help me? I was always under the impression that tampering with congressional testimony was a serious offense not to be taken lightly.

I rely upon your position as Worthy Chairman of this Congressional Committee to review mentally and physically, the evidence presented, to qualify the testimony which was presented on April 26, and compare it with this transcript I received and notify me of your findings. I feel confident that you,as well as,I are seeking the truth; that you will make certain that if justice cannot be done at this time, at least the truth as we heard it will be presented on the Congressional Record.

Sincerely;

Robert B. Graham

Robert B. Graham Sr.

encl;

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U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

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NINETY-SEVENTH CONGRESS

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ERWIN HYTNER, STAFF DIRECTOR

December 15, 1982

Mr. Robert B. Graham, Sr.
Committee for Constitutional Taxation
Post Office Box 1776
Richboro, Pennsylvania 18954

Dear Mr. Graham:

Thank you for your letter regarding the Committee for Constitutional Taxation. The materials you submitted to this office concerning the Subcommittee's April 26, 1982 hearing will be reviewed and retained in the Subcommittee files for the Members' future reference.

As I explained to you during the hearing, the record would be kept open to afford you an opportunity to review the Internal Revenue Service Commissioner's statement and supply the Subcommittee with additional comments for the record. Accordingly, your earlier letter to me concerning the Commissioner's testimony has been included in the hearing record. Let me note, however, that IRS Commissioner Egger did not, in my presence, make the comments you allege were deleted from the Committee's transcript of the hearing proceeding. So that we can end debate on this point, I am including a copy of this letter in the hearing record as well.

Sincerely yours,

Charles B Rangel

Charles B. Rangel
Chairman

CBR:bkv

Chairman **Rangel**. Our next panel will be Mr. Philip P. Storrer from California; Mr. William Metzger, California; and Mrs. Irene Hanson from Texas.

We have a rather detailed record you were kind enough to prepare for the committee. With your consent, this will appear in our record and you can testify as you would like.

STATEMENT OF PHILIP P. STORRER, C.P.A., BYRON, CALIF.

Mr. **Storrer**. I would prefer, Mr. Chairman, if the exhibits I have given you not appear in the record.

Chairman **Rangel**. They will be excluded from the record. Your statement will appear in the record, Professor, you can proceed as you would like.

Mr. **Storrer**. Thank you.

Mr. Chairman, members of the subcommittee, my name is Philip Storrer, and I represent myself. I appreciate this opportunity to appear before you to present testimony on IRS practices and policies.

As indicated in my request to be here, I am an associate professor of accounting and director of the graduate taxation program at California State University at Hayward, where I have been for the past 9 academic years.

Prior to that time, I spent 4 years as an Internal Revenue agent, instructor, and 6 months as an acting office audit branch chief in the District of Los Angeles. For the past 4 years, in addition to my work at the university, I have conducted seminars sponsored by the California CPA Foundation for Education and Research, entitled "IRS Audit Techniques and Strategies."

In this capacity, I have had the opportunity to discuss IRS practices and policies with approximately 500 CPA's per year, across the country. I am also a practicing CPA with a specialty in taxation.

It is out of this background that my concern for this subject grows. The Internal Revenue Service has without question an enviable record of effective tax administration.

We point with pride to the country's high level of volunteer compliance for which the Internal Revenue Service deserves much of the credit. There has always been a degree of taxpayer unrest, but in recent years, this taxpayer unrest has exploded into a full-blown nationwide revolt.

This revolt includes taxpayers from all walks of life, and all professions. Thousands of otherwise honest and upright citizens are participating in a wide variety of ridiculous tax schemes generally known as abuse of tax shelters, tax protestors, and the pervasive underground economy.

Taxpayers are willing to assume tremendous financial risks, to say nothing of risks to their personal freedom, to reduce, even temporarily, their tax bills. The entire system is in jeopardy. It is my considered opinion that no amount of money, manpower, policies, or procedures can stem the growing tide of discontent.

The problem will only be solved through a reduction of the tax rates to take the profit out of cheating and the simplification by substituting a gross income tax for the existing tax base.

It is for this reason that I wholeheartedly support H.R. 5868, which was the resolution directing Treasury to study the feasibility of a gross income tax and Senate bill 2376, to, much the same effect, introduced by Senator Charles Grassley.

In the meanwhile, there are many troublesome IRS practices and policies, some of which I have discussed in the material submitted for the written record. In general, the principles of tax administration outlined in Revenue Procedure 64-22 in my opinion are not being adequately protected.

I wish to summarize very briefly some of the points discussed in the material that I have submitted for the written record. It is not necessary that the committee or the IRS respond to specific cases that I have submitted for your review, but I welcome any questions that they may have and I would be willing to participate in whatever meaningful way with the committee or the IRS.

First of all, since 1976, Congress in response to constituent concerns, has enacted laws directing the Internal Revenue Service to cease and desist a variety of administrative practices and interpretations.

That list includes these moratoriums, in effect, things like fringe benefit regulations, commuting rules under Revenue Ruling 76-643, independent contractor versus employee status, and section 288 regulations involving vacation rentals and the use of home as a business office.

It appears that when Congress issues directives such as these, the Internal Revenue Service seeks to circumvent the spirit of these provisions by stepping neatly through the technicalities of each directive.

The spirit of Revenue Procedure 64-22 is not being adequately protected. I am encouraged, however, by the current Commissioner Egger's efforts to promote the rule of reason and to weigh established Internal Revenue Service practices to adhere to statutory requirements and to increase the IRS administrative efficiency and give deference to the congressional intent in interpreting tax laws.

Revenue agents are instructed by Revenue Procedure 64-22 "to perform their work in a fair and impartial manner with neither a government nor taxpayer point of view."

This is virtually impossible with the existing complexities. Revenue agents and auditors are prone to apply the law in an arbitrary and unbinding way. Tax law is so complicated that many revenue agents and tax auditors and I would include myself and CPA's in that category, cannot technically distinguish one situation from another.

Practitioners often refrain from dealing with the auditor for this reason. They wait to present difficult technical arguments to the Appeals Conferee or the IRS Council. There has also been a decline of professionalism evidenced by the lack of personal interest on the part of Internal Revenue Service personnel in conducting their official duties.

Several examples of this are discussed in the written record, and I would be glad to provide more.

I have, however, rarely encountered a serious problem when the Internal Revenue Service agent, auditor, or officer has taken a personal interest in resolving the problem. I do not have any trouble dealing with a caring, thinking, professional person. But I do have a great deal of difficulty dealing with the system. I would be glad, if it pleases the committee, to describe in question and answers, particular cases which may bear on this issue.

The documents in exhibit B relate to a case where one of my clients' bank accounts was levied under a levy-by-mail procedure after we had received verbal assurances from the Internal Revenue Service personnel that no action would be taken, pending a reconsideration of the documents in support of a sufficiency abatement.

This is after we sent four letters, certified, return receipt requested, each containing a power of attorney and a request for correspondence. We received none. Several days after the first levy was paid by the bank, the bank received a second notice of levy with respect to the same deficiency.

The bank manager called me and I immediately contacted the Internal Revenue Service district office. With the help of the highest management level within the district, we were able to get the levy released within 3 days.

This, of course, results in an ineffective utilization of the talented Internal Revenue Service management, to say nothing of the financial costs and the anger of the taxpayer.

The Service has the responsibility, says Revenue Procedure 64-22, of applying and administering the law in a reasonable and practical matter. The number of impractical or unreasonable positions and practices assumed by the Internal Revenue Service is on the increase.

One such practice is illustrated by the documents appearing as exhibit C, tax auditors and office auditors are instructed to issue reports disallowing questioned items when taxpayers fail to show for prescheduled appointments.

The taxpayer in exhibit C received a Form Letter 890, dated April 8, 1981, requesting them to call for an appointment and bring with them documents in support of a variety of items.

The taxpayer called and scheduled an appointment for May 26. I was retained on May 10. On May 19, I sent a letter with the power of attorney, certified, return receipt requested, informing the office audit group I would be handling the audit and requesting the transfer of the case to an office near the taxpayer's residence and nearer my office.

With no further word, on August 7, 1981, the Internal Revenue Service issues Report Form 1902B, disallowing virtually every deduction on the return, resulting in an increase to my client's income of $84,864.83 and a requested tax deficiency of $96,932. Needless to say, the client was visibly shaken. The audit office group clerk informed me that, "your letter just didn't get associated with the file."

The group supervisor, in response to my concern said, "Mr. Storrer, I wish I could tell you that it won't happen again."

Chairman RANGEL. Professor, you recognize the severe time restraint we have, and after reviewing your testimony, I want to assure you that all of your cases will be in the full record. But in an effort to conclude these hearings——

Mr. STORRER. I understand. Let me make reference, if I could, to two other situations, one of which I think is important in regard since it involves a lot of taxpayers. Revenue procedure says that it is important that care be exercised not to raise an issue or two ask the court to adopt a position inconsistent with an established Service position.

I referred to two Revenue rules to demonstrate violation of this point, Revenue Ruling 80-173, which is the direct opposite of Revenue Ruling 62-213, that involved thousands of taxpayers nationwide that would not be in the court today had it not been for a consistently held, 18-year period of private revenue ruling issued to taxpayers who took advantage of what they thought to be their legal right to take a deduction and not report the corresponding revenue reimbursement from VA.

I would also like to refer, I can't close without referring to what I have witnessed over the last few years, a precipitous increase in a number of talented people leaving the Service.

Many of them express frustration over the decrease in professionalism, and the negative public image of the IRS. Many of them who still work there have lost interest in their work. I think that gets more complicated with each tax enactment. The most important observation I could make is that I find it increasingly difficult to, for reasons stated in the written record, recruit my students for the Internal Revenue Service.

I am interested in this because of the Service's need for good people, and because my experience with the Internal Revenue Service was not only professionally most enjoyable, but was a tremendous learning opportunity.

My supervisor and managers with the Internal Revenue Service took at personal interest in my development and presented me with one challenge after another, and I owe much to them in this experience.

I believe the salaries of the Internal Revenue Service to be generally competitive and salary advancements within the Service even better than the large accounting firms. We must all work together to help the IRS recruit talented people. I pledge to continue to do my part.

Again, in conclusion, it is my considered opinion that the only solution to these problems lies in the massive simplification of the tax base to an alternative system that taxes a fixed percentage of gross income.

These problems will not be solved with more laws which merely add to the complexity. Holding the existing system together is the responsibilities of us all, T. F. Carr, then Assistant Director of the Atlantic District, said it best in the 1981 Conference on Tax Compliance, sponsored by the University of Virginia, "I think," said he, "how difficult the tax system is and sometimes it is inequitable. But I also think of what the alternatives are. Frankly, it is a partnership between you accountants and the Service."

I wholeheartedly agree, but I would expand that. It is a partnership between the taxpayers, the Internal Revenue Service with oversight from Congress. The partnership agreement, however, needs some modification. I would be glad, also, to make some comments on the substitution of volunteerism for the IRS taxpayer assistance program.

April 26, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

Dear Mr. Chairman:

I am aware that I am under no obligation to discuss my dealings with the Internal Revenue Service, and that I am voluntarily testifying before the Committee on Ways and Means, Subcommittee on Oversight, in a public hearing. I am also aware that my statement and any information disclosed by me will be placed in the Committee hearing record, a published public document, and could be used in a court of law. Further, I am voluntarily disclosing such information included in my testimony to the Committee for the purpose of this hearing and for inclusion in the hearing record.

Taxpayer Name ______________________

Social Security Number ______________________

Address ______________________

Signature ______________________

Date ______________________

[The prepared statement follows:]

STATEMENT OF PHILIP P. STORRER, ASSOCIATE PROFESSOR, ACCOUNTING, COORDINATOR OF GRADUATE TAXATION PROGRAM, CALIFORNIA STATE UNIVERSITY, HAYWARD, CALIF.

BACKGROUND

The Internal Revenue Service has, without question, an enviable record of effective tax administration. We point with pride to our country's historically high level of "voluntary compliance" for which the Internal Revenue Service deserves much of the credit.

There has always been a degree of taxpayer unrest, but in recent years this taxpayer unrest has exploded into a full-blown, nationwide revolt. This revolt includes taxpayers from all walks of life and all professions. Thousands of otherwise honest and upright citizens are participating in a wide variety of ridiculous tax schemes, generally known as abusive tax shelters, tax protestors, and the pervasive undergound economy. Taxpayers are willing to assume tremendous financial risks, to say nothing of risks to their personal freedom to reduce even temporarily their tax bills. The entire tax system is in jeopardy. The Internal Revenue Service is in administrative shambles caused in large part by the paralyzing schemes mentioned above.

It is my considered opinion that no amount of money, manpower, policies or procedures can stem the growing tide of discontent. The problem will be solved only through a reduction of tax rates to take the profit out of cheating and simplification by substituting a gross income tax for the existing tax base.

TROUBLESOME INTERNAL REVENUE SERVICE PRACTICES

There exist many troublesome Internal Revenue Service practices and policies some of which I will touch on in the material which follows.

1. In general, the principles of tax administration outlined in Rev. Proc. 64-22 are not being adequately protected (a copy of Rev. Proc. 64-22 appears as Exhibit A).

a. "Tax policy for raising revenue is determined by Congress", not the Internal Revenue Service. With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various code provisions in the light of the congressional purpose in enacting them. Since 1976, Congress, in response to constituent concerns, has enacted laws directing the Internal Revenue Service to cease and desist from a variety of administrative practices and interpretations. One of the most notable of these is §530 of the Revenue Act of 1978 (HR8511) dealing with controversies involving whether individuals are employees for purposes of the employment taxes. These controversies have continued in spite of this congressional directive. Virtually every week the Internal Revenue Service promulgates Private Rulings and technical advice memoranda on this issue most of which deny §530 relief. It appears that when Congress issues a directive such as this, the Internal Revenue Service seeks to circumvent the spirit of this provision by stepping neatly through the technicalities of each directive. The spirit of Rev. Proc. 64-22 as quoted above is, in my opinion, being violated.

b. Revenue agents and auditors are instructed by Rev. Proc. 64-22 ". . . to perform (their) work in a fair and impartial manner, with neither a government nor a taxpayer point of view". This is virtually impossible with the existing complexities. Revenue agents and auditors are prone to apply the law in an arbitrary and unbending way. Tax law is so complicated that many revenue agents and tax auditors cannot technically distinguish one situation from another. Practitioners often refrain from dealing with the auditor for this reason. They wait to present difficult arguments to the Appeals Conferee or Internal Revenue Service Counsel. In addition, tax auditors often do not consider seriously other corroborating evidence submitted by the taxpayer in support of items such as travel and entertainment and charitable cash contributions even though Regulations §1.274-5(c)(3), (4), and (5) and Information Release 5-14-65 require this. They fail to properly apply these subjective substantiation rules in favor of a more objective and arbitrary disallowance for "lack of support".

Arbitrariness is also demonstrated by two incidents related to me by fellow practitioners. In one case, the practitioner was told that the taxpayer could not depreciate the apartment rental unit in which the manager lived because "it was not rented". In another, the auditor informed the practitioner that the rules regarding substantiation of meals now required that receipts be kept for expenditures of less than $25. Reg. §1.274-5(c)(2)(iii)(b), of course, has not been changed. It exempts expenditures of less than $25 from the receipt requirement. I believe confusion of this sort results from the misperception on the part of the tax auditors and revenue agents as to the meaning of internal procedural and technical memoranda. Directives issued by the Commission, Regional Commissioners, or District Directors are often misinterpreted by the rank and file auditors.

There has also been a decline in professionalism evidenced by the lack of personal interest on the part of Internal Revenue Service personnel in conducting their official duties. I recently had the occasion to discuss a collection matter with a representative at a local Internal Revenue Service office. The case involved a delinquency penalty abatement request on the grounds of reasonable cause. I discussed the support for our case with the accounts representative who said she would consider it and get back to me. She called back later the same day to say that she had rejected our request whereupon I informed her that I was sending her a letter to indicate our disagreement with this position and request an appeals conference. She said that she had already closed the case file. I then suggested she associate my letter with the file when she received it. She said that she couldn't guarantee anything since the file "was gone". At this point, I simply asked her to do the same thing to my correspondence that she did to the original case file when she received it and the conversation terminated. It is clear to me that the literally impossible workload results in the use of policies and procedures as a means of disposing of a case rather than the personal interest and responsibility of personnel assigned the task. I have rarely encountered a serious problem when the Internal Revenue Service agent, auditor, or officer has taken a personal interest in resolving the problem. I do not have trouble with a caring, thinking professional. I do have a great deal of trouble, however, dealing with the system.

The documents in Exhibit B relate to a case where one of my client's bank accounts was levied under the levy-by-mail procedures after we had received verbal assurances from the Internal Revenue Service collection personnel that no action would be taken pending a reconsideration of documents in support of a deficiency abatement. This was also after we had sent four letters, certified return-receipt requested, each containing a power-of-attorney, Form 2848, and a request for correspondence. We received no response. Several days after the first levy was paid, the bank received a second levy notice with respect to the same deficiency. The bank manager called me, and I immediately contacted the Internal Revenue Service District Office. With the help of district management, the second levy was released within three days. This, of course, results in an ineffective utilization of talented Internal Revenue Service management, to say nothing of the financial cost and anger of the taxpayer.

c. Revenue Procedure 64-22 continues by prescribing:

> "At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he is "protecting the revenue". The revenue is properly protected only when we ascertain and apply the true meaning of the statute."

In recent years, the Internal Revenue Service has adopted several technical and procedural positions which have resulted in congressional moratoria which instructed the Internal Revenue Service to modify or suspend rulings and regulations pending congressional review. This is a response to overwhelming constituent concern for the misinterpretation and administration excess evidenced in these positions. These moratoria effect, for example, the following issues: fringe benefit regulations, commuting rules in Rev. Rul. 76-643, independent contractor vs employee status, single purpose agricultural buildings as §38 property, and Section 280 regulations involving vacation rentals and use of home as a business office. More specifically, for example, the Internal Revenue Service, in their August 7, 1980, notice of proposed rule regarding the §280A regulations, stated among other things that "A taxapyer may deduct expenses allocable to the use of a portion of a dwelling unit as the taxpayer's principal place of business if the taxpayer makes no use of that portion of the unit other than for business purposes. The proposed regulations provide that this exception applies only if the unit is the principal place of the taxpayer's overall business activity. Use of a unit as the principal place of business for a secondary business does not qualify. The proposed regulations do not follow the decision of the Tax Court in Curphey v. Commissioner, 73 T.C. No. 61 (Feb. 4, 1980)." The current administration reversed this position in response to the congressional directive contained in §123 of P.L. 96-369, 10/01/80, prohibiting implementation or enforcement of these proposed regulations. Practitioners are frustrated with positions such as these which appear to be in direct conflict with the Committee Reports themselves. Taxpayers are, to say the least, angered at what appears to them to be a callous disregard for the protection of their rights. They cannot understand how the Internal Revenue Service can discard the opinions of the court with which they do not agree. This is produced in part by the ignorance of the public as to the nature of acquiesces and non-acquiesces and that the Internal Revenue Service, indeed, is not required to follow lower court decisions. I share the feeling of many practitioners, however, that the §280 regulations were excessive and, therefore, patently invalid on their face. History has proved us to be correct. These encounters are bound to increase with increased complexity.

These confrontations cause a tremendous loss of what little Internal Revenue Service public relations remain. There are no winners, only losers. It creates more confusion, not less. For that reason, I am encouraged by the current Commissioner's, Mr. Egger, efforts to promote a "rule of reason" and to weigh established Internal Revenue Service practices, adhere to statutory requirements, increase administrative efficiency and give deference to congressional intent in interpreting tax law.

d. "The Service also has the responsibility of applying and administering the law in a reasonable, practical manner", says Rev. Proc. 64-22. The number of impractical and/or unreasonable positions and practices assumed by the Internal Revenue Service is on the increase. The proposed fringe benefit regulations are, in my opinion, an example of impractical tax administration. To account for benefits of this type is not only impractical but in some instances virtually impossible.

Some Internal Revenue Service practices are extremely unreasonable and inefficient. Powers-of-attorney are often not acknowledged. It is difficult to get the power-of-attorney form posted at the Service Center to enable Internal Revenue Service district personnel to identify the legal representative. The documents in Exhibit B illustrate this quite graphically.

A more troublesome Internal Revenue Service practice is illustrated by the documents appearing as Exhibit C. Tax auditors in office audit are instructed to issue reports disallowing questioned items when taxpayers fail to show for prescheduled appointments. The taxpayer in Exhibit C received a form letter 890 dated April 8, 1981, requesting them to call for an appointment and bring with them documents in support of a variety of items. The taxpayer called and scheduled an appointment for May 26, 1981. I was retained by the taxpayer on May 10, 1981. On May 19, 1981, I sent a letter with a power-of-attorney, certified return-receipt, informing the office audit group that I would be handling the audit and requesting a transfer of the case to an office nearer the taxpayer's residence and my office. On July 1, 1981, I wrote to the taxpayers telling them I had not yet heard from the Internal Revenue Service and asked that they inform me if they received any correspondence. With no further word, on August 7, 1981, the Internal Revenue Service issued report form 1902-B disallowing virtually every deduction on the return resulting in an increase to the clients income of $84,864.53 and a requested tax deficiency of $36,959.72. Needless to say, the client was visably shaken.

The office audit group clerk informed me, when I inquired as to what happened, that "your letter just didn't get associated with the file". The group supervisor, in response to my concern, said, "Mr. Storrer, I wish I could tell you that it wouldn't happen again".

The use of these "sledge-hammer" reports are designed primarily to get the attention of the taxpayer and are not issued as serious Internal Revenue Service positions. Audit reports used in this way do nothing but alienate the taxpayer and the representative and frustrate, not facilitate, the settlement process. The use of these "no show" reports should be restricted to extreme cases of taxpayer disregard.

e. Rev. Proc. 64-22 also prescribes that "it is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position". To demonstrate a violation of this principle, I need only refer to Rev. Rul. 80-173 as a direct opposite of Rev. Rul. 62-213. For 18 years, the Internal Revenue Service consistently ruled privately in favor of taxpayers wishing to apply Rev. Rul. 62-213 to allow a deduction for flight training expenses and an exclusion for the resulting V.A. reimbursement. I have included in Exhibit D one such private ruling along with copies of the public rulings in question. In early 1980, the Internal Revenue Service reversed this long-standing interpretation retroactively. There are currently hundreds, if not thousands, of docketed and suspended cases dealing with this issue which, in my opinion, would not be in the system today had it not been for Rev. Rul. 62-213 and the private rulings issued thereunder. These private rulings and information contained in them were circulated through the ranks of airline pilots who in good faith took advantage of what they, as veterans, believed to be their right. They also relied on the Internal Revenue Service to apply the law consistently and in a fair and equitable manner.

These taxpayers are livid over this abuse of power and wonder how basic rights can be so easily trampled. They are not initiated into the mysteries of procedural tax law as to the sovereign's right to retroactively revoke its rulings and regulations.

I believe that in instances such as these where the Internal Revenue Service changes a ruling, the provisions of §7805(b) should be invoked to permit the new position to be implemented prospectively, not retroactively. Without reasonable policies such as this, misunderstanding builds to mistrust and finally open, fiscal rebellion.

f. "Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness." I find tax auditors and agents to be distrustful of practitioners and often openly display this distrust in their comments and dealings.

During a relatively recent office audit, a series of questions were posed by the tax auditor which I was unable to answer or answer completely. I gave short response as accurately as my knowledge permitted. At the conclusion of this exchange, the auditor looked at me and said "something always bothers me about a practitioner who is so glib".

On another occasion, a tax auditor in the Los Angeles district refused to give me the name and/or telephone number of his supervisor and informed me that if I continued to insist on it, he was going to hang up, whereupon he did. Demeanor of this kind not only alienates but constitutes a gross violation of taxpayer relations procedures and should result in disciplinary sanctions.

g. "(Administration) should never try to over-reach, and should be reasonable within the bounds of law and sound administration."

Examples of "over-reaching" abound. Exhibit E contains a copy of a 30-day letter containing a report form 1902-B which was mailed to the hospital where the taxpayer was confined due to a serious industrial injury. Sending this notice to the hospital is goulish at best and perhaps a violation of §6103, unauthorized disclosure of confidential information.

Several districts have adopted inflexible policies and procedures that do not result in an efficient use of manpower and frustrates the closing of cases. One such policy is the steadfast refusal to conduct the audit at the accountant's office even though all books and records are located there. Exhibit F is a copy of a memorandum issued by the Director of the Albuquerque District to all field personnel which instructs them as to this issue. "In the future, I will expect all audits to be conducted at the taxpayers' place of business. If for some rare and unusual reason it is beneficial to the Internal Revenue Service to conduct the examination elsewhere, approval must be secured from the Chief Audit Division." There is a conspicuous absence in this memorandum to the "convenience of the taxpayer" rule so prominently mentioned as a "paramount" criteria in Internal Revenue Manual §4261.2(1).

I am currently engaged in a difficult discussion with the District of Los Angeles over the place of audit for a corporate client of mine. All of the corporate records for the year under examination are located in my Northern California office. The Los Angeles District has to date refused to transfer the case to the San Francisco District. I have several very serious technical concerns over the enforceability of this policy to say nothing of the apparent conflict with Internal Revenue Manual §4261.2(1). The documents which appear as Exhibit G express much more completely my opinion as to the technical correctness of this policy. As a matter of administration efficiency, I have never found the inflexible application of policies and procedures to facilitate the closing of cases even when they can be supported by statutory and regulatory provisions.

I am even more concerned, however, about the "third-party contacts" referred to by the revenue agent in his letter of April 13, 1982 (see page 2, paragraph 2, in Exhibit G). He states that "should it be necessary to make any third-party contacts to verify any item examined, it will be in the Government's interest to have the examination held in the area where the third-parties are". As expressed in my response, I consider this to represent a careless disregard for the unauthorized disclosure rules. The potentially devastating effect of such contacts on my client's business heightens my concern. I find that revenue agents in general are not nearly as cautious about third party disclosures as they should be. The intent of §6103(k)(6) is eminently clear. It was designed to preclude unnecessary breaches of privacy, especially those which could potentially damage the taxpayer's business. Irreparable damage is not only possible but likely in the event of third-party probes of this sort. This Committee and Congress should reiterate in a very clear way the message conveyed in The General Explanation of the Tax Reform Act of 1976 (H.R. 10612, 94th Congress, Public Law 94-455) prepared by the Staff of the Joint Committee on Taxation. This explanation provides in pertinent part:

> "IRS officials and employees are permitted, if no reasonable alternative exists, to make limited disclosures of return information in connection with an audit or investigation to the extent necessary in arriving at a correct determination of tax, liability for tax, or the amount to be collected, or otherwise in the enforcement of any provision in the Code. In certain instances, it may be necessary for IRS personnel, in obtaining information with respect to a taxpayer from a third party, to disclose the fact that the request for information is in connection with an audit or other tax investigation of the taxpayer. In rare and extraordinary cases, it may also be necessary for IRS personnel in obtaining information from a third party to disclose additional return information such as the manner in which the taxpayer treated on his return a transaction with the third party. Disclosures under this provision are to be made only in situations and under conditions specified in the regulations. This provision is not intended to permit disclosure which would not have been permitted under prior law."

2. I have, over the recent years, witnessed a precipitous increase in the number of talented people who are leaving the Service. Many of them which whom I talk express frustration over a decrease in professionalism, overwhelming procedural obstructions, and the negative public image of the Internal Revenue Service. Many who are still there, have lost pride in their work. Professionalism is bound to suffer when an agency is required to administer a law which not only approaches incomprehension, but gets more complicated with each tax enactment. The volume of paper involved in processing 100 million returns, and 400 to 500 million information items plus untold numbers of other letters and documents speaks for itself. When I was with the Service there were problems which seemed to defy solution. It invariably took the personal effort of a professional who assumed the responsibility to find a solution. The pressure of the current volume makes this much more difficult.

The stature of the Service has also been adversely effected by the practitioner conduct penalty provisions especially §6694(a). On balance, I believe these penalties have been fairly applied by the Internal Revenue Service. But that, in my opinion, is not the issue. It is unhealthy and unhelpful to the ultimate objective to have a tax auditor or agent judging negligence on the part of a licensed certified public account, enrolled agent or attorney. These individuals are controlled by their own professions' rules of practice as well as Circular 230 promulgated by the Treasury Department. Practitioners with whom I speak suggest strongly that we should not be held to a higher standard than the auditors or agents who with increasing frequency advance positions which violate rules and regulations.

During my last six months with the Internal Revenue Service in the Los Angeles District, I was an acting Section Chief in office audit working on the so called "questionable practitioner" project. We had 60 preparers in that program and approximately 60,000 returns. It was out of the national "Q.P." program that the support for these conduct penalties grew. Judging from the profile of the "questionable practitioner" as I know it, these penalties were intended for the unscrupulous card-table, non-licensed return preparer. They were not intended for attornys, certified public accountants, or enrolled agents. §6694(a) should make a distinction between licensed and non-licensed practitioners. Those governed by Circular 230 should not be subject to these conduct penalties. The sanctions of §6694(b) and §7206(2) are adequate examples.

The stature of the Service is also adversely effected by the personal liability to which an officer of the Service could be exposed because of an unauthorized disclosure violation of §6103. §7217 imposes a fine against individual Internal Revenue Service employees equal to a minimum of $1000 for each unauthorized disclosure. Charges of unauthorized disclosure, I am told, are raised in almost every narcotics investigation the Service conducts as a tactic to intimidate the individual agent. I strongly believe in individual accountability but not in the form of a personal monetary fine. The Internal Revenue Service must not be allowed, however, to make disclosures which destroy or damage a taxpayer's business or invade his or her privacy. In short, §6103 and §7217 should remain, but the agency should pick up the tab and discipline the employee internally.

3. I find it increasingly difficult to recruit my students for the Internal Revenue Service. I am interested in this because of the Service's need for good people, and because my experience with the Internal Revenue Service was not only professionally most enjoyable, but a tremendous learning opportunity. My supervisor and managers with the Service took a personal interest in my development and presented me with one challenge after another. I owe much to this experience.

Difficulty is also caused by the cumbersome nature of the recruitment process. My students expect a committment when they interview with a prospective employer. They get these committments from private certified public accountant firms while the Internal Revenue Service must often tell them that they are waiting for authority to hire. I have on occasion put a student to work or found them temporary position while they waited for the Internal Revenue Service to call. This process should be streamlined. I believe the salaries to be generally competitive and the salary advancement within the Service to be even better on balance than the large accounting firms.

The negative Internal Revenue Service image is seriously damaging the recruitment process. This past week one of my graduate taxation students, who is a certified public account with several years of public utility tax experience outlined a disturbing story. He had been to see an executive placement firm about available positions. He told them he was thinking of going to work for the Internal Revenue Service whereupon the firm representative informed him that because of the negative Internal Revenue Service image, local private firms were reluctant to hire Service agents. He went on to say that he had a long list of Internal Revenue Service agents and auditors who were looking for positions. We must all work to help the Internal Revenue Service hire high quality professional people. I pledge to continue to do just that.

CONCLUSION

It is my considered opinion that the only solution to these problems lies in a massive simplification of the tax base to an alternative system which taxes a fixed percentage of gross income. These problems will not be solved by more laws which merely add to the complexity. I include in this list of new laws "The Taxpayer Compliance Improvement Act of 1982", §2198, which will add to, not reduce, the problems discussed in this paper. In the meantime, I encourage Mr. Egger to continue his efforts to make the agency more efficient, reasonable and less arbitrary in the administration of our nation's tax laws. Communication between the Internal Revenue Service and practitioners must be improved. I suggest that each Regional Commissioner, District Director and Branch Chief have their own group of local practitioners who will serve as an advisory counsel in the same way as the Commissioner's advisory group.

Holding the existing system together is the responsibility of us all. T.F. Carr, then Assistant District Director of the Atlanta District, in my opinion, said it best in 1981 conference on tax compliance problems sponsered by the University of Georgia:

> "I think of how difficult the tax system is, and sometimes it is inequitable. But I also think of what the alternatives are. Frankly, it's a partnership between you accountants and the Service".

I wholeheartedly agree. The partnership agreement, however, needs some modification.

EXHIBIT A

* * * * * * *

REVENUE PROCEDURE 64-22

Statement of some principles of
Internal Revenue tax administration

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various code provisions in the light of the congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he is "protecting the revenue." The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

* * * * * * *

Chairman RANGEL. Thank you.

Mr. William Metzger?

STATEMENT OF WILLIAM METZGER, MARIN COUNTY, CALIF.

Mr. METZGER. My name is William Metzger. I am a legal resident of Marin County, Calif. Over the last several years, it has troubled me that an ever-increasing proportion of my wages have been taken as taxes.

After submitting to IRS audits 2 years in a row, I took a keen interest in what kind of taxes are being taken from me and by what authority they are being levied.

My research time and time again led me to the same conclusion, the 16th amendment to the U.S. Constitution gives the Congress power to levy taxes on capital gains and profits, wages, and salaries are not taxable income.

The Federal power to tax is given in article I, section 8, clause 1, and again in article VIII, section 9, clause 4 of the U.S. Constitution.

Power granted in section 8, clause 1 permits a uniform excise tax to be collected. The power granted in section 9, clause 4 permits direct taxes to be collected, but only in proportion to the census. The 16th amendment to the U.S. Constitution is merely an extension of article I, section 8, clause 1, that is to collect an excise tax, specifically, an excise tax on capital gains and profits. Article XVI reads as follows:

> The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.

This one statement has given rise to the Internal Revenue Service as we know it. The effect of the 16th amendment is to provide the Congress with a clear-cut authority to tax capital gains and profits.

The letter President Taft sent to the Senate, June 16, 1909, explains the need for such an amendment. One statement in President Taft's letter I found particularly interesting says, "The tax on net income is preferable to one proportionate to a percentage of gross receipts, because it is a tax upon success and not failure."

To arrive at the true meaning of the word income used in the 16th amendment, I have consulted the law books. Every definition of the word as applied to my situation defines income as a profit or gain derived from capital, from labor, or from both combined.

I have attached to this statement two pages that define income. The choice of the word income in the 16th amendment has caused much confusion. That confusion has permitted the IRS to extract from individuals who constitutionally owe no tax.

The basic mode of social communication is language. There is everyday language and the more specific language of our professional life. I am an electrician by trade. A wrench is a tool I use every day.

For my purposes, the word wrench must be more narrowly defined, what kind, what size, et cetera.

To a businessman who does not use this tool, a wrench is a wrench. Do you see my point? In everyday language, income means money that comes in, but to a businessman, income is the general heading of a rainbow of meanings.

Gross receipts, net receipts, adjusted gross receipts, et cetera, but the meaning of the word income in tax statutes means profit or gain.

We must remember that the authors of the 16th amendment were mostly lawyers, a profession with close ties to business and businessmen.

Their meaning of the word income is quite different from the everyday meaning of the word. Substitute the word profit for income in the 16th amendment and you will see what I mean.

Wages are an equal exchange of time and labor for something of equal value. Since the exchange is for things judged to be of an equal value, there is no tax liability, and since the Federal income tax is a tax on profits and gains derived from a capital source, there is no tax.

The exchange was capital in the form of money for the exchange of capital in the form of every man's inalienable right to labor, no profit, no gain, no tax.

Wages received by the employee represents unassigned capital. By this I mean the person receiving the wage has liquid capital, most of which will be used to maintain the present standard of living. A portion of this unassigned capital is what the IRS prefers to have withheld in anticipation of a tax liability.

I believe that the intimate relationship this unassigned capital has with a man's inalienable right to labor if infringed upon or directly seized constitutes involuntary servitude.

The IRS Code is frequently vague. This leaves the IRS in a position to interpret the code in many different ways.

The Federal income tax is widely touted as a voluntary compliance tax which it is not. Most people do not realize that the 1040 form is signed under penalties of perjury. Most people do not realize that the W-4 form is a contract with the IRS. Most people do not realize the rights they waive when filling out these forms as instructed.

My final comment is, that should a citizen be brought into court by the IRS, it would be virtually impossible to find a lawyer that would offer a vigorous and effective defense against the IRS. I do not believe that a person receiving only a wage falls under the jurisdiction of the Internal Revenue Code.

Thank you.

[The following was submitted for the record:]

April 26, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

Dear Mr. Chairman:

I am aware that I am under no obligation to discuss my dealings with the Internal Revenue Service, and that I am voluntarily testifying before the Committee on Ways and Means, Subcommittee on Oversight, in a public hearing. I am also aware that my statement and any information disclosed by me will be placed in the Committee hearing record, a published public document, and could be used in a court of law. Further, I am voluntarily disclosing such information included in my testimony to the Committee for the purpose of this hearing and for inclusion in the hearing record.

I am aware that without this authorization my returns, return information, and taxpayer return information, as defined in Section 6103(b) of the Internal Revenue Code, are confidential and are protected by law under the Internal Revenue Code.

I authorize the Internal Revenue Service to disclose my returns, return information and taxpayer return information, as those terms are defined in Section 6103(b) of the Internal Revenue Code for all tax years to any Member of the Committee on Ways and Means, Subcommittee on Oversight, or to any member of the Subcommittee's staff or counsel, for use in preparation for the Subcommittee's April 26, 1982 public hearing on the Internal Revenue Service's administration of the tax laws, for use during the Subcommittee's public hearing, or use in preparation or inclusion in any report or public document prepared by the Subcommittee which pertains to the public hearing.

I also authorize the Members, staff and counsel of the Subcommittee, and the Internal Revenue Service, to disclose this information either during the public hearings or after the public hearings to any person and in any manner that the Members, staff and counsel of the Subcommittee, or the Internal Revenue Service, deem necessary to clarify the hearing record.

Taxpayer Name Wm. Metzger
Social Security Number 166-32-0710
Address 1910 Fernbrook Ave, Oakford, Pa
Signature Wm Metzger
Date 4-26-82

Chairman **Rangel**. Thank you, Mr. Metzger.

Mrs. Irene Hanson.

STATEMENT OF IRENE C. HANSON, LEWISVILLE, TEX.

Mrs. **Hanson**. Can you hear me?

Chairman **Rangel**. Yes.

Mrs. **Hanson**. Mr. Chairman and members of the subcommittee: On August 13, 1979, I was assaulted by an IRS agent because a citizen asked me to be a witness at an IRS audit.

A complaint of the assault in an affidavit was sent to the Dallas District Director and no remedial action was ever taken by them.

On December 5, while I was observing the court of Sarah T. Hughes and gathering information to be used for a subsequent demand for her impeachment, I was asked to identify myself by two IRS agents. The next day I was arrested. No charges were ever made, no warrant ever issued.

I was denied counsel by a Federal judge and a Federal magistrate. I was held incommunicado in a locked room for 3 hours at the end of which time there was a star chamber inquisition in the courtroom. Then I was released still not knowing of any charges against me.

At this point a chain of events began, each event having in common further abuses by the IRS: On December 9, I demanded the names of all deputy U.S. marshals that were involved with my false arrest and incarceration.

On or about January 11, 1980, my husband, Bruce Hanson, was notified by letter that he was being referred to the Justice Department for prosecution.

Rex Cauble, accused of drug dealing, with the help of counsel, was able to postpone his arraignment for 2 months; although the court was able to arraign my husband without benefit of counsel in less than 10 minutes.

My husband was accused of misdemeanor crimes and Mr. Cauble accused of 10 or 11 felonies.

On these same felonies he was sentenced to a total of 5 years and will serve less time than my husband because his sentences were made concurrent, while my husband's sentences are consecutive at the behest of the IRS.

For asserting his constitutional rights, my husband was given the maximum sentence, a total of 3 years. This, in spite of the fact that the judge was told that I was seriously ill in the chest hospital at Tyler at the time.

My husband has been blackballed in his work as a stress analyst in the aerospace business. He has not been able to get this type of work since 1979.

At the sentencing the judge granted my husband's request to appeal in forma pauperis, but he later revoked it without the IRS ever contravening my husband's affidavit of indigency.

We are unable to afford the costs of the appeal; even an indigent has the right to appeal; without the appeal he will be imprisoned.

> He has made judges dependent on his will alone, for the tenure of their offices * * *. He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance * * * He has combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknow-

> ledged by our laws: giving his assent to their acts of pretended legislation: * * * for depriving us * * * of the benefits of trial by jury * * * abolishing our most valuable laws, and altering fundamentally the forms of our Governments: * * * he has abdicated Government here, by * * * waging war against us * * * In every stage of these oppressions we have petitioned for redress. Our repeated petitions have been answered only by repeated injury * * * But when a long train of abuses and usurpations, pursuing invariable the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such Government, and to provide new guards for their future security.

When the former IRS Commissioner, Donald Alexander, says he doesn't understand the IRS Code, it is time to rewrite the IRS Code.

When the Bill of Rights is void because the case has to do with taxes, it is time to investigate this un-American activity.

A Federal judge in Dallas just revoked the probation of Hal Willis because he criticized Federal expenditures and Federal taxes.

When the IRS can dictate what is a church and thereby strip some churches of a tax exemption and steal money that belongs to God then they are guilty of establishing religion.

When the IRS can search and seize without a warrant signed by a judge, then we are no longer safe from their depredations.

When the IRS can have a whole setup of courts without a jury, they are un-American and it is time to give the IRS and those who authorized the procedure a trial for treason with the American people as jurors. [Applause.]

In my case, the IRS has trumped up charges, in fact, their contempt for due process knows no bounds.

But I am here to tell you that I am here because I have come in the service of God. The judge didn't care whether I lived or died,

> But they that wait upon the Lord shall renew their strength they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint. (Isaiah 41:31.)

Christ is raising up his army. We know resistance to tyranny is service to God.

Only foolish men won't learn from history; the Pharoah hardened his heart, but through Moses God caused a victory that is remembered today, every Passover and every Easter.

God made men free with certain inalienable rights and governments are instituted among men to secure these rights.

Time after time in the affairs of men a tyrant has sprouted like a poisonous mushroom, and time after time each tyrant has reigned his reign of terror only to be supplanted.

If Americans wouldn't stomach the tyrant King George in 1776, why do you imagine two centuries later Americans will continue to stomach the IRS?

Ladies and gentlemen, to fail to act now in clarifying the law and providing for redress of grievances is consent to the tyrannical acts of the IRS by your silence.

Chairman RANGEL. Mr. Duncan.

Mr. DUNCAN. I would like to ask Mr. Storrer a question.

Mr. Storrer, if you were the Commissioner of Internal Revenue Service, what would you do to correct the abuses that we have heard here today?

Mr. STORRER. As I said, sir, in my written statement and in my oral remarks, I praise the current Commissioner for his steps in increasing, in attempting to increase the efficiency, and I think he is right in saying that we don't need money as much as we do more efficient means of doing what we are currently doing, and so I think I would accentuate those maybe even more.

I think in 1926 we had a historical precedent to what we have got now. Currently, 266,000 tax shelter cases backlogged, something like that, upward of 40,000 docketed Tax Court cases, 8,000 of which, if I remember correctly, deal with tax shelters, and back then they used somewhat the same techniques that they are currently using, trying to settle cases at the lowest possible level, and then relying on Congress to give them the laws, of course, to eradicate the tax shelters.

The problem with that, sir, is that it simply has not worked and in my opinion will not work.

Mr. DUNCAN. How would you expedite closing of a case once the investigation started?

I, personally, get more complaints on carrying out the investigation for a long period of time. How would you expedite it?

Mr. STORRER. You mean the timely nature of it. That is one of the things that I address in my testimony.

Mr. DUNCAN. Could you answer it briefly?

Mr. STORRER. Yes. I think that there should be more emphasis on, of course, contact and communication between the agent and the auditor and the taxpayer. I find that when I have a problem in settling a case, because of the delay, it is because the auditor hasn't communicated with me by phone and in writing as frequently as I think they should, but, of course, they have got a tremendous problem.

Some tax auditors are required to do five cases a day. It just simply has gotten them buried.

Mr. DUNCAN. Thank you very much. Thank you, Mr. Chairman. I thank the panel.

Chairman RANGEL. Mr. Metzger, I can understand the serious questions that you raise about the authority of the IRS to collect taxes, but you indicated that you didn't believe that a person could really receive an effective defense in court against the Internal Revenue.

Is this because of your belief of the awesome power of the Internal Revenue as relates to the court system?

Mr. METZGER. Yes. I believe that anyone can be intimidated.

Chairman RANGEL. Some people have been intimidated, but you do believe that can go into the Federal courts as well, and the judges could be intimidated, the juries would be intimidatd, and, indeed, the lawyers themselves would be intimidated defending clients.

Mr. METZGER. Most of the lawyers I have had experience with have been lawyers mostly for the money.

Chairman RANGEL. Have been what?

Mr. METZGER. They have been lawyers because of the income that it provides them, and not so much for justice.

Chairman RANGEL. Thank you.

Mrs. Hanson, you raised general objections to the system and you talked specifically about a violation of your rights and your husband's rights.

Do you have cases pending now that you are requesting answers for?

Mrs. **Hanson**. I don't understand the question What kind of cases? Nothing has ever been done. I was assaulted. I was locked up. Nothing has ever been done.

Chairman **Rangel**. But your case went to court, did it not?

Mrs. **Hanson**. My case, as far as being assaulted and being locked up, nothing has been done on it. I have come to you for redress.

Are you going to redress my grievance?

Chairman **Rangel**. That is what I am asking.

Mrs. **Hanson**. Yes. I have no redress of grievance, no. Nothing has been done. It has never gone to court.

Chairman **Rangel**. I am asking have you ever filed for redress prior to your testimony here?

Mrs. **Hanson**. Yes. The first thing I did when I was assaulted was to put in affidavits, and the conclusion——

Chairman **Rangel**. Do we have copies of those affidavits?

Mrs. **Hanson**. No. If you would like them, I will see that you have them. I didn't know how much to bring. I could have brought a suitcase full of papers. I need to know what you want and I will give it to you.

[The following was submitted for the record:]

April 26, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1101 Longworth H.O.B.
Washington, D.C. 20515

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Taxpayer Name [illegible]
Social Security Number ______
Address [illegible]
Signature ______
Date [illegible]

STATE OF TEXAS)
) KNOW ALL MEN BY THESE PRESENTS
COUNTY OF DALLAS)

I, Richard LaVerne, a resident of Dallas County, being of sound mind and over the age of 21 years am competent to testify to the following material facts:

1. I was summoned to appear at the IRS Town East Office Park, 3434 Highway 67 East, Mesquite, Texas, on August 13, 1979, 10:00 a.m.

2. I had been summoned on two previous occasions and had appeared with a witness each time. The witness was allowed to be with me at each of the previous conferences.

3. On August 13, 1979, Irene Hanson accompanied me at my request as a witness in order to protect my rights. After I introduced Irene Hanson as my witness to Jackie R. Davis, Revenue Officer, and Larry Rushing, IRS Revenue Officer Don Williams appeared.

4. Agent Williams questioned Irene Hanson as to whether she was an agent enrolled to practice before the Internal Revenue Service, a member of the bar licensed to practice before the IRS, a CPA, etc. To all of these questions, she replied that she was there to witness what happened to Mr. LaVerne in conference with the IRS and whether or not his Constitutional rights would be violated, and that she was there at Mr. LaVerne's request. At no time did any of the agents ask me if I was waiving my right to confidentiality under 26 USC 6103 with regard to Mrs. Hanson, as they are required to do.

5. I heard Agent Williams raise his voice to Mrs. Hanson several times in a threatening and intimidating manner, telling her she could not be with me in the conference. Agent Williams appears to me to be a person of about six feet, three inches, and about 230 pounds.

6. Finally, Agent Williams leaned over Mrs. Hanson and asked in a threatening manner and tone of voice "are you refusing to leave?" She said, "No," but pointed out that I wanted her with me.

7. I then proceeded to the conference room with Don Williams and several other agents. I saw Agent Williams physically block Mrs. Hanson from accompanying me. Fearing for her physical safety, I said to her "I want you with me, but I don't want you to get in trouble." At that point I feared that he would physically harm her by preventing her from accompanying me. I then told her to remain there and I would go into the conference alone with the several IRS agents.

Richard LaVerne

STATE OF TEXAS)

COUNTY OF DALLAS)

Before me, the undersigned authority, a Notary Public for the State of Texas, on this day personally appeared Richard LaVerne, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

Given under my hand and seal of office this 5 day of May, A.D. 1982.

458-72-6896/4/000
Notary Public in and for
Dallas County, Texas
My Commission Expires: 1-29-86

I affirm that the following statement is true and correct to the best of my knowledge and recollection:

That I, Vernon E. Smith, Jr., attended a trial of John M. Murfin in Sarah Hughes courtroom on December 6, 1979.

At that time the following events occurred:

Mrs. Irene Hanson came into the courtroom along with two other men, one whom I believe was a deputy sheriff. Mrs. Hanson asked the judge why she was brought before the court. In so many words the judge told her she had been seen with one of the members of Mr. Murfin's jury. Mrs. Hanson asked if she was being charged with a crime. The judge said "no" and then Mrs. Hanson asked why her personal liberty had been detained by the court and if she was under arrest. The judge said "yes" and asked if she had counsel. Mrs. Hanson asked what the charge was and why she was being arrested. The judge said again, "do you have counsel"? Mrs. Hanson again asked if she was going to be told the charge against her and the judge said that she was not going to tell her and asked again if she wanted counsel or she would appoint for her a court attorney. Mrs. Hanson responded that she wanted a Mr. Bill Pabst from Houston, Texas to represent her. The judge asked if he was an attorney and she said "no" but that was who she wanted for counsel. The judge said that she could not have Mr. Pabst for counsel if he was not a member of the bar and that she would appoint her an attorney. Mrs. Hanson said she did not want a court appointed attorney. The judge then asked if she wanted Mr. Murfin's attorney to represent her and Mrs. Hanson said she did not. She wanted Mr. Pabst. Mr. Murfin's attorney spoke up at this time and said that he was here representing Mr. Murfin and asked the reason for the delay in Mr. Murfin's trial; that he was supposed to be giving the final arguments before the jury. The judge told him to sit down and that the court had another matter to take care of. Mrs. Hanson asked again why she was being arrested and asked how the court and especially a judge had the power to arrest under the Constitution. She asked the judge,"Are you above the Constitution?" The judge told her to sit down and that she was to be taken into custody and given a court appointed attorney. Mrs. Hanson stated that she would not accept a court appointed attorney and if she could not have Mr. Pabst to represent her that she would just not have counsel. The judge then ordered Mrs. Hanson and the other detained party, the legal aide to Mr. Murfin's attorney, to go with the deputy to get an attorney appointed for them. They both were then led out of the courtroom and taken into custody.

Vernon E. Smith Jr.

Vernon E. Smith, Jr.

THE STATE OF TEXAS
COUNTY OF KAUFMAN

Before me, Vernon E. Smith, Jr., came and stated the foregoing is true and correct, and he has personal knowledge of the facts herein and is competent to testify.

GIVEN UNDER BY HAND AND SEAL OF OFFICE THIS 28 day of December 1979.

Gloria Rogers

My license expires June 12, 1980.

I affirm that the following is true and correct to the best of my knowledge and remembrance:

That on December 6, 1979, having appeared as a witness at the trial of John M. Murfin, on this date I was able to go inside the courtroom as a spectator having been released as a witness. Shortly after I arrived for the proceedings, a Mrs. Irene Hanson was brought before the court by deputies and apparently was being charged before Sarah Hughes, the judge of the court. Mrs. Hanson wanted to know if she was under arrest and for what crime. Ms. Hughes said that she was under arrest, but I never understood what the charge was. Ms. Hughes asked Mrs. Hanson if she had counsel and Mrs. Hanson responded in the negative. Ms. Hughes said that she would need counsel and that she could have a court appointed attorney. Mrs. Hanson said she wanted a Mr. Bill Pabst from Houston, Texas to represent her. Ms. Hughes asked if he were a member of the bar. Mrs. Hanson responded that he was not, but that the U.S. Constitution said she was to have counsel of choice. Ms. Hughes said she would not have anyone who was not a member of the bar in her courtroom. At this time, Mrs. Hanson inquired of Ms. Hughes if she set herself above the Constitution. Ms. Hughes did not answer this question, but instead asked Mrs. Hanson to sit down. Ms. Hughes asked if she (Mrs. Hanson) wanted Mr. Murfin's attorney to represent her, but Mrs. Hanson insisted that she would have Mr. Pabst. Shortly thereafter, Mrs. Hanson and a Mr. Robertson, who was also detained, were taken from the courtroom. It was my understanding from the proceedings that Mrs. Hanson had been arrested by Judge Hughes, but I never actually knew what the alleged crime was. During a recess, I asked a Mr. Rielly with the IRS, if this was some more of their dirty tricks.

Gloria Rogers

THE STATE OF TEXAS
COUNTY OF KAUFMAN

Before me came, Gloria Rogers, and stated the foregoing is true and correct, and she has personal knowledge of the facts herein and is competent to testify.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 28 day of December 1979.

My license expires
April '81

STATE OF TEXAS)
(KNOW ALL MEN BY THESE PRESENTS
COUNTY OF)

BEFORE ME, the undersigned, a Notary Public in and for said County, State of Texas, on this day personally appeared **Donald G. Wharton** to me well known to be a credible person, and who, after being by me duly sworn, on his oath did state:

I, **Donald G. Wharton**, a resident of **Hill** County, Texas, being over the age of twenty-one and of sound mind am competent to testify under oath from personal knowledge and/or information to the following certain material facts in paragraphs :

1. That on the morning of December 6th, 1979, at about 10:00 a.m. Diane Simons and I left the United States Federal District Court for the Northern District of Texas, Dallas Division, where we had been viewing a criminal cause styled U.S.A. v. Murfin, to have notarized an affidavit filed in said cause.

2. That upon returning to the Federal District Courthouse for the purpose of filing the affidavit as described above, we were advised that Irene Hanson and Dale Robertson had been arrested and were being held by the U. S. Marshal's Office.

3. That we proceeded to the U. S. Marshal's Office to inquire into the nature and cause for said detention of the two herein named individuals.

4. That upon arrival at the U. S. Marshal's Office we met Irene Hanson's husband, Bruce Hanson, and that after inquiry of U. [illegible]fficials relative to charges filed against the tw[illegible]cts we were informed by the Marshal's Offi[illegible]though they were holding these two subjects [illegible]o idea why and that no formal charges ha[illegible] bee[illegible] against same.

5. That we inquired [illegible] a[illegible]ee the warrant for Mrs. Hanson's arrest [illegible]formed that the Marshal's Office had [illegible]nt and we were further informed tha[illegible]ot see Mrs. Hanson.

6. That at approximately 2:00 p.m. Sarah T. Hughes, the judge presiding in Mr. Murfin's trial, convened an Inquisition. That Mr. Isen, after strenuous objection over the overlapping of this Inquisition into the Murfin trial and delay caused thereby, inquired of Judge Hughes as to the nature of these proceedings and was told by Judge Hughes, "I think you know," and "you will see."

7. That Mrs. Hanson, after being held incommunicado for hours, was led into the courtroom, whereupon she expressed her displeasure to Judge Hughes concerning the facts that she was held against her will, incommunicado, without benefit of seeing a warrant for her arrest, knowledge of any charges having been filed against her, had been arraigned without counsel and was then told by Judge Hughes, "young woman, sit down."

8. Thereafter Mrs. Hanson was coerced to the stand, by reason of her imprisonment, several attempts were made to swear her whilst the Prosecuting Attorney in the Murfin trial continuously objected that she had not made the statement, "I do." It is uncertain to me whether or not Mrs. Hanson was ever properly sworn by

reason of what I would term more resembled a three-ring circus rather than a court. The entire proceeding was extraordinary and unprecedented to anything I have ever witnessed in any court.

9. Mrs. Hanson thereupon took the stand, refused to answer any questions generally put to her by her inquisitors, in the form of the team of Judge Hughes and the Murfin Prosecuting Attorney and his aide, an unknown female government attorney, even to the point of refusal to acknowledge her name, by reason of her repeated statements, "I don't have to be a witness against myself," and from time to time "What am I here for?" "I'm not on trial," "this is supposed to be Mr. Murfin's trial."

10. At the conclusion of her (testimony?) she asked Judge Hughes "am I under arrest, if so what am I charged with, where is the warrant?" to which after repeated pressing, Judge Hughes finally stated, "yes, you are under arrest." Mrs. Hanson again asked where is the warrant and stated to Judge Hughes, "Are you higher than the U. S. Constitution?" to which no response by Judge Hughes was forthcoming, as an affirmative response had been given already by virtue of Judge Hughes actions. Judge Hughes then dismissed Mrs. Hanson from the stand.

11. At one point while Mrs. Hanson was on the stand, she stated that she was without counsel and desired to have Dr. William Pabst as her counsel. At this point the Prosecuting Attorney made a flippant remark concerning Mr. Pabst's religious belief, something to the effect that he (Pabst) worshipped the witch, thus indicating he (Pabst) was some sort of demonic personification of low esteem and that there was some sort of condemnation directed toward Mrs. Hanson, personally, by reason of her choice of counsel.

12. That the general effect of proceedings and/or the proceedings of the previous day were chilling to the witnesses by reason of the fact that photographs were taken in the halls outside the courtroom of witnesses.

This Affidavit is made in good faith. Further Affiant saith not.

THE STATE OF TEXAS)
(
COUNTY OF **TARRANT**)

BEFORE ME, the undersigned authority, on this day personally appeared **Donald G. Wharton**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the **16th** day of **January** A.D. 1980.

Notary Public in and for
Tarrant County, T E X A S
My Commission expires **24 January 1981**

STATE OF TEXAS)
(KNOW ALL MEN BY THESE PRESENTS
COUNTY OF Dallas)

BEFORE ME, the undersigned, a Notary Public in and for said County, State of Texas, on this day personally appeared Gloria Ludlum to me well known to be a credible person, and who, after being by me duly sworn, on his oath did state:

I, Gloria Ludlum, a resident of Dallas County, Texas, being over the age of twenty-one and of sound mind am competent to testify under oath from personal knowledge and/or information to the following certain material facts in paragraphs all :

Sarah T. Hughes, United States District Judge is incompetent, has not served with good behavior, has committed acts of misconduct, has neglected her duty by so doing and during her tenure of office has acted improperly and has not impartially performed her judicial duties to wit:

1. That Irene C. Hanson is known by me to be a member of the Ad Hoc Committee to Investigate the Federal Grand Jury.

2. That from November 13, 1979, to December 6, 1979, Irene C. Hanson was in attendance at the Court of Sarah T. Hughes on an intermittent basis in her capacity as a member of the Ad Hoc Committee to Investigate the Federal Grand Jury.

3. That on December 5, 1979, photographs were taken of witnesses in the corridor outside the courtroom of Sarah T. Hughes in the Federal Building in the Northern District of Texas, Dallas Division.

4. That on the morning of December 6, 1979, near 10:30 a.m. Irene C. Hanson was arrested and restrained of her liberty by U. S. Marshals.

5. That it was learned that no arrest warrant or any kind of subpoena was issued or served upon Irene C. Hanson and therefore the U. S. Marshals had violated the Fourth Amendment of the U. S. Constitution with regard to Irene C. Hanson.

6. That U. S. Marshals acting on the verbal orders of Sarah T. Hughes did confine, arrest and restrain the liberty of Irene C. Hanson without due process in violation of the Fifth Amendment of the U. S. Constitution.

7. That in open court Sarah T. Hughes admitted that she had ordered the arrest of Irene C. Hanson.

8. That from approximately 10:30 a.m. to 2:00 p.m. on the 6th day of December, 1979, Irene C. Hanson was deprived of her Constitutional rights by Judge Sarah T. Hughes and members of the United States Marshal's office, held incommunicado, and deprived of counsel which subjected her to cruel and unusual punishment in violation of the Eighth Amendment of the U. S. Constitution.

9. That from 2:00 p.m. to 3:00 p.m. of December 6, 1979, Sarah T. Hughes subjected Irene C. Hanson to a Star Chamber Inquisition without benefit of counsel in violation of the Sixth Amendment of the U. S. Constitution.

10. That during the Inquisition conducted by Sarah T. Hughes, U. S. Assistant Attorneys Dan C. Guthrie, Jr., and Shirley Baccus-Lobel subjected Irene C. Hanson to questions that were calculated to ridicule the religious beliefs held by Irene C. Hanson in violation of the First Amendment of the U. S. Constitution.

11. That during the Inquisition of December 6, 1979, Sarah T. Hughes acted in conspiracy with U. S. Assistant Attorneys Dan C. Guthrie and Shirley Baccus-Lobel to deprive Irene C. Hanson of all of the aforementioned Constitutional rights.

12. That at no time did Sarah T. Hughes attempt to protect the Constitutional rights of Irene C. Hanson thus violating her oath of office and bringing discredit and shame upon the United States Judiciary.

This Affidavit is made in good faith. Further Affiant saith not.

Gloria Ludlum

THE STATE OF TEXAS)
)
COUNTY OF Dallas)

BEFORE ME, the undersigned authority, on this day personally appeared Gloria Ludlum, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the 3rd day of January A.D. 1980.

Barbara C. Hogue
Notary Public in and for
Dallas County, T E X A S
My Commission expires 1-5-81

STATE OF TEXAS)
(KNOW ALL MEN BY THESE PRESENTS
COUNTY OF DALLAS)

BEFORE ME, the undersigned, a Notary Public in and for said County, State of Texas, on this day personally appeared Robert S. Brewer, II, to me well known to be a credible person, and who, after being by me duly sworn, on his oath did state:

I, Robert S Brewer II, a resident of Dallas County, Texas, being over the age of twenty-one and of sound mind am competent to testify under oath from personal knowledge and/or information to the following certain material facts in all paragraphs but 3. :

Sarah T. Hughes, United States District Judge is incompetent, has not served with good behavior, has committed acts of misconduct, has neglected her duty by so doing and during her tenure of office has acted improperly and has not impartially performed her judicial duties to wit:

1. That Irene C. Hanson is known by me to be a member of the Ad Hoc Committee to Investigate the Federal Grand Jury.

2. That from November 13, 1979, to December 6, 1979, Irene C. Hanson was in attendance at the Court of Sarah T. Hughes on an intermittent basis in her capacity as a member of the Ad Hoc Committee to Investigate the Federal Grand Jury.

3. That on December 5, 1979, photographs were taken of witnesses in the corridor outside the courtroom of Sarah T. Hughes in the Federal Building in the Northern District of Texas, Dallas Division.

4. That on the morning of December 6, 1979, near 10:30 a.m. Irene C. Hanson was arrested and restrained of her liberty by U. S. Marshals.

5. That it was learned that no arrest warrant or any kind of subpoena was issued or served upon Irene C. Hanson and therefore the U. S. Marshals had violated the Fourth Amendment of the U. S. Constitution with regard to Irene C. Hanson.

6. That U. S. Marshals acting on the verbal orders of Sarah T. Hughes did confine, arrest and restrain the liberty of Irene C. Hanson without due process in violation of the Fifth Amendment of the U. S. Constitution.

7. That in open court Sarah T. Hughes admitted that she had ordered the arrest of Irene C. Hanson.

8. That from approximately 10:30 a.m. to 2:00 p.m. on the 6th day of December, 1979, Irene C. Hanson was deprived of her Constitutional rights by Judge Sarah T. Hughes and members of the United States Marshal's office, held incommunicado, and deprived of counsel which subjected her to cruel and unusual punishment in violation of the Eighth Amendment of the U. S. Constitution.

9. That from 2:00 p.m. to 3:00 p.m. of December 6, 1979, Sarah T. Hughes subjected Irene C. Hanson to a Star Chamber Inquisition without benefit of counsel in violation of the Sixth Amendment of the U. S. Constitution.

10. That during the Inquisition conducted by Sarah T. Hughes, U. S. Assistant Attorneys Dan C. Guthrie, Jr., and Shirley Baccus-Lobel subjected Irene C. Hanson to questions that were calculated to ridicule the religious beliefs held by Irene C. Hanson in violation of the First Amendment of the U. S. Constitution.

11. That during the Inquisition of December 6, 1979, Sarah T. Hughes acted in conspiracy with U. S. Assistant Attorneys Dan C. Guthrie and Shirley Baccus-Lobel to deprive Irene C. Hanson of all of the aforementioned Constitutional rights.

12. That at no time did Sarah T. Hughes attempt to protect the Constitutional rights of Irene C. Hanson thus violating her oath of office and bringing discredit and shame upon the United States Judiciary.

This Affidavit is made in good faith. Further Affiant saith not.

Robert S. Brewer II

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

BEFORE ME, the undersigned authority, on this day personally appeared Robert S. Brewer, II , known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the 25th day of January A.D. 1980.

Sandra Kay George
Notary Public in and for
Dallas County, T E X A S
My Commission expires 10-19-81

April 26, 1982

Ladies and Gentlemen:

On August 13, 1979, I was assaulted by an IRS agent because a citizen asked me to be a witness at an IRS audit. A complaint of the assault in an affidavit was sent to the Dallas District Director and no remedial action was ever taken by them.

On December 5, while I was observing the court of Sarah T. Hughes and gathering information to be used for a subsequent demand for her impeachment, I was asked to identify myself by two IRS agents. The next day I was arrested. No charges were ever made, no warrant ever issued. I was denied counsel by a federal judge and a federal magistrate. I was held incommunicado in a locked room for three hours at the end of which time there was a star chamber inquisition in the courtroom. Then I was released still not knowing of any charges against me.

At this point a chain of events began, each event having in common further abuses by the IRS: On December 9, I demanded the names of all deputy U. S. marshals that were involved with my false arrest and incarceration. On or about January 11, 1980, my husband, Bruce Hanson, was notified by letter that he was being referred to the Justice Department for prosecution.

Rex Cauble, accused of drug dealing, with the help of counsel was able to postpone his arraignment for two months; although the Court was able to arraign my husband without benefit of counsel in less than ten minutes. My husband was accused of misdemeanor crimes and Mr. Cauble accused of ten or eleven felonies. On these same felonies he was sentenced to a total of five years and will serve less time than my husband because his sentences were made concurrent, while my husband's sentences are consecutive at the behest of the IRS.

For asserting his Constitutional rights, my husband was given the maximum sentence, a total of three years. This in spite of the fact that the judge was told that I was seriously ill in the chest hospital at Tyler at the time. My husband has been blackballed in his work as a stress analyst in the aerospace business. He has not been able to get this type of work since 1979.

At the sentencing the judge granted my husband's request to appeal in forma pauperis, but he later revoked it without the IRS ever contravening my husbands affidavit of indigency. We are unable to afford the costs of the appeal; even an indigent has the right to appeal; without the appeal he will be imprisoned.

"He has made Judges dependent on his Will alone, for the Tenure of their Offices,...He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance...He has combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws: giving his Assent to their Acts of pretended Legislation: ...For depriving us...of the Benefits of Trial by Jury:...abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:...He has abdicated Government here, by...waging War against us...In every stage of these Oppressions we have Petitioned for Redress ...Our repeated Petitions have been answered only by repeated Injury...But when a long Train of Abuses and Usurpations, pursuing invariably the same Object, evinces a Design to reduce them under absolute Despotism, it is their Right, it is their Duty, to throw off such Government, and to provide new Guards for their future Security."

When the former IRS commissioner, Donald Alexander, says he doesn't understand the IRS code, it's time to rewrite the IRS Code.

When the Bill of Rights is void because the case has to do with taxes, it's time to investigate this un-American activity. A federal judge in Dallas just revoked the probation of Hal Willis because he criticized federal expenditures and federal taxes.

When the IRS can dictate what is a church and thereby strip some churches of a tax exemption and steal money that belongs to God then they are guilty of establishing religion.

When the IRS can search and seize without a warrant signed by a judge, then we are no longer safe from their depredations. When the IRS can have a whole setup of courts without a jury, they are un-American and it's time to give the IRS and those who authorized this procedure a trial for treason with the American people as jurors.

In my case, the IRS has trumped up charges, in fact their contempt for due process knows no bounds. But I am here to tell you that I am here because I have come in the service of God. The judge didn't care whether I lived or died, "But they that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint." (Isaiah 41:31.) Christ is raising up his army. We know resistance to tyranny is service to God.

Only foolish men won't learn from history; the Pharoah hardened his heart, but through Moses God caused a victory that is remembered today, every passover and every Easter. God made men free with certain inalienable rights and governments are instituted among men to secure these rights. Time after time in the affairs of men a tyrant has sprouted like a poisonous mushroom, and time after time each tyrant has reigned his reign of terror only to be supplanted. If Americans wouldn't stomach the tyrant King George in 1776, why do you imagine two centuries later Americans will continue to stomach the IRS.

Ladies and Gentlemen, to fail to act now in clarifying the law and providing for redress of grievances is consent to the tyrannical acts of the IRS by your silence!

Irene C. Hanson

Irene C. Hanson
(Mrs. Bruce Hanson)
Route 2, 33 Wildwood
Lewisville, Texas 75067
214 436-6471

June 28, 1982

JUL 2 1982
Ways and Means
Subcommittee on Oversight

Chairman Charles B. Rangel,
Subcommittee on Oversight
Committee on Ways and Means
United States House of Representatives
Washington, D. C. 20515

Dear Chairman Rangel:

I have your letter of June 14, 1982. First of all, I do not believe that the enclosure, purporting to be the portion of Commissioner Egger's statement relating to my case, is the verbatim transcript from the hearing on the 26th day of April, 1982. On the day after the hearing I read the verbatim transcript that the court reporter had prepared. I was informed when I read this transcript that I could not make any notes or photos of the transcript. I recall that all those testifying on the 26th at the hearing were advised that there could be no substantive change to the reporter's transcript, only correction of typographical errors. We were advised that when we received our copies of the transcript we could make no substantive change. Have the rules changed now?

Your letter of April 27, instructed me to mark the transcript for necessary corrections. Only changes in the interest of clarity, accuracy and corrections in transcribing errors are permitted. Changes which substantially alter the actual testimony are not permitted. Your letter of June 14 states that the Commissioner's statement has been corrected by the IRS for typographical errors, clarity, coherence, and so forth. Who changed the rules for making no substantive change? And when was it done?

Mr. Eggers said, referring to the assault I testified to, he failed to see how that came about. I will remind the Committee of the affidavits I submitted with my corrected transcript on May 10, 1982. Further, Black's Law Dictionary defines assault this way:

> "An intentional, unlawful offer of corporal injury to another by force, or force unlawfully directed toward person of another, under such circumstances as create well-founded fear of imminent peril, coupled with apparent present ability to execute attempt, if not prevented." (emphasis added)

Referring to the policy not to allow people, who are not properly authorized, to represent a taxpayer: Mr. LaVerne requested my presence as a witness, not counsel or representative, and he was aware that in so doing he waived the privacy act. Here again we have form not substance; this thread of honoring form rather than substance is woven through all IRS activities; it is the modus operandi of the IRS. No matter what law we are dealing with, or what safeguards Congress has set up, the IRS agents will subvert that law to oppress the people.

If any investigation was carried out, it was within the agency. I was never questioned or corresponded with. Just what did the two investigations concerning the assault consist of? Questioning the wrongdoers? I expect if they so wilfully broke the law, they would not hesitate to lie to cover up.

Referring to Mr. Eggers' statement about my being detained or held overnight: I was arrested after I identified myself to two special agents of the IRS. May I remind you that affidavits by witnesses to my false arrest and imprisonment were submitted to the Committee on May 10, 1982. If you were aware of all of the people involved in this false arrest, you would find it difficult to believe Mr. Egger's tale of not knowing what that is about. If you will investigate diligently, you will find out it was another high-handed attempt by the IRS to scare the public into believing that it's unsafe to attend a public trial. I have submitted affidavits, made under oath; has the IRS submitted any affidavits in justification of their acts?

Chairman Rangel, I have a question concerning what you said directly after Mr. Egger's testimony about me. You said, "And we will receive that information and forward it to Mrs. Hanson..." When will you forward this information to me? I am very interested in this. I am also very interested in the answers you assured Mr. Graham, one of the witnesses on April 26th, he would receive. He asked questions of Congress, such as: What is an income tax liability? Where is it in the IRS Code? Am I a person required to file? etc. When will we all be able to receive the answers to those questions?

When will I receive my copy of the hearing? I was promised and promised and promised a copy of the hearing by I don't know how many people on the staff of the Oversight Subcommittee. Yet I do not have a copy of the hearing. A letter from Congressman Philip M. Crane dated June 9 informed me that the original printing of the report has run out quickly. There will be another six weeks' delay. I was promised a copy as soon as it was printed!

In the Liberty wherewith
Christ hath made us free,

Irene C Hanson

Irene C. Hanson
Route 2, 33 Wildwood
Lewisville, Texas 75067
214 436-6471

Chairman Rangel. Just 1 minute. I just want to make certain that the IRS is familiar with your case.

Mrs. Hanson. Why won't they be? I sent it to them.

Chairman Rangel. If for any reason the Internal Revenue Service indicates that they don't have sufficient——

Mrs. Hanson. Well, they sent letters back. I would assume, then, that they got the affidavits.

Chairman Rangel. I assume that you are right, but if they tell us that they don't, you can rest assured that we will then contact you to get whatever additional information we need.

Mrs. Hanson. I want you to.

Chairman Rangel. And we will be responding to you.

Mrs. Hanson. Will you actually investigate everything that they have done to my husband, to me?

Chairman Rangel. We will look into the case of both your husband and yourself.

Mrs. Hanson. I have given you the authorization. I don't want any paper left over in their files. I want you to see it all.

Chairman Rangel. Perhaps the first question I would ask of the next witness is whether or not the Commissioner would have any problem in doing this, in view of the fact that you have questioned this.

Mrs. Hanson. OK.

Chairman Rangel. Thank you very much.

Would the Internal Revenue Service now need a recess?

Twenty minutes, would that be sufficient? We will recess until 25 minutes to 2.

[Brief recess.]

Chairman Rangel. The committee will resume its hearings.

Welcome, Commissioner Egger. You assumed your responsibilities at the same time that I assumed the chair of the Oversight Committee, and I want to thank you for the cooperation that you have extended to this committee in the past as we try to fullfill our responsibility of providing oversight.

You have heard some of the cases this morning that we as Members of Congress have been receiving from individuals and organizations, and it is the Chair's hope as we find more and more people avoiding the voluntary tax system that perhaps through your office and your ombudsman that we can provide some type of a communication between frustrated citizenry and their Members of Congress and your office.

In order to give credibility to the system, of course, we must be able to get honest answers, quick responses to allegations that are made. I am certain you will not deny that human failing does not exclude the Internal Revenue Service, and that you probably do and should want to know not just where violations are committed by employes, but where it is perceived by individuals and communities that violations have been committed. Further, I think that as long as this committee is assured that the mechanism is set up where we can follow through on these demands being made on the members and on the committee, that we can do a great deal without going to the Congress for additional legislation in improving on that procedure.

Maybe Mr. Duncan, who has a deep interest in this, might have something to add.

Mr. DUNCAN. I wondered if we were going to get into possible questions.

Chairman RANGEL. I would assume that the Commissioner would like to respond first.

Mr. DUNCAN. I would like to reserve my right.

Chairman RANGEL. Very good.

Commissioner, welcome to the committee.

STATEMENT OF ROSCOE L. EGGER, JR., COMMISSIONER OF INTERNAL REVENUE, AND HAROLD BROWNING, TAXPAYER OMBUDSMAN, INTERNAL REVENUE SERVICE, ACCOMPANIED BY DONALD BERGHERM, ASSOCIATE COMMISSIONER FOR OPERATIONS, ROBERT REBEIN, ASSISTANT COMMISSIONER FOR INSPECTION, WARREN HARRISON, CHIEF OF OPERATIONS, CRIMINAL INVESTIGATION DIVISION, AND JOHN SPARKS AND DONALD TEMPLE, SPECIAL AGENTS

Mr. EGGER. Thank you very much, Mr. Chairman. First let me say that I am pleased to have the opportunity to be here. You have provided a mechanism through which these allegations of complaints can be aired, with an opportunity on our part to respond to them to the extent that we can do so without violations of the Privacy Act or the Internal Revenue Code provisions on privacy.

First let me introduce the people here at the witness table with me. Harold Browning is the IRS Taxpayer Ombudsman. Mr. Browning will have a separate statement of his own after I have concluded my testimony. Donald Bergherm, on my right, is the Associate Commissioner for Operations. We have a number of other Service officials here who could be available for any in-depth discussions that might be appropriate as the occasion arises.

In my prepared statement, which was made available to the subcommittee, the media and the general public earlier, I went to great lengths to describe the details of IRS safeguards for taxpayers' rights, with particular attention to our examination, collection, criminal investigation, and inspection functions.

Chairman RANGEL. That full statement will appear in the record, Commissioner.

[The statement of Mr. Egger follows:]

STATEMENT OF ROSCOE L. EGGER, JR., COMMISSIONER OF INTERNAL REVENUE

Mr. Chairman and Members of the Subcommittee, I am pleased to be with you today for this oversight hearing into the Internal Revenue Service's systems for safeguarding taxpayers' rights. We appreciate this opportunity to put forth the Service's position on such an important issue, and we hope to demonstrate to your satisfaction that the Service gives a high priority and attention at all levels of the organization to safeguarding taxpayers' rights.

Accompanying me today are Harold Browning, the Taxpayer Ombudsman, who will have a separate statement to present at the conclusion of my testimony; Don Bergherm, Associate Commissioner for Operations; and Bob Rebein, the Assistant Commissioner (Inspection). Other Service officials also are available for in-depth discussions of their specific program areas if necessary.

ROLE OF SAFEGUARDS IN VOLUNTARY COMPLIANCE

Before going into the details of our safeguards, I would like to provide some background on the way the Service views this area. This is important in order that we maintain an appropriate perspective on this issue.

No one is really going to disagree that collecting taxes is perhaps the most unpopular function of government. The annoyance felt by most people as they prepare and submit their tax returns, coupled with the sentiment that the taxes themselves are too high, combine to reinforce this unpopularity. At the same time, however, I think we can all agree that collecting taxes is perhaps the most important function of government. In fact, without the revenues so collected, all functions of government would ultimately grind to a halt.

Believe me when I tell you that the Service knows full well how important voluntary compliance is to the success of our tax administration system. We simply cannot operate without it. We are well aware that the extent of that voluntary compliance—and therefore the success of our system—rests to a large degree on taxpayers' perceptions of the fairness and equity of tax administration. In our role as the administrators of the system, we make every effort to insure the continual presence of that fairness and equity in all aspects of our operations, but particularly so in the area of taxpayers' rights. We will never knowingly take any action which would undermine taxpayers' rights and the voluntary compliance system.

Of course, it would be foolish to say that mistakes do not occur. With total staffing of over 85,000 in fiscal year 1982, and anticipated personal contacts of all types with nearly 50 million taxpayers, the likelihood of occasional errors is obvious. The fact that personal judgment on the part of our employees is required in most, if not all, taxpayer contacts—such as providing assistance, examining returns, collection delinquent accounts, investigating possible criminal violations, etc.—is certainly a factor present in the prospect for errors. Add to this the known complexity of the tax law, and the processing of nearly 167 million returns of all types in fiscal 1981, as well as issuing more than 71 million individual refunds, and the scope of our problem becomes clearer. This organization simply has too many contacts with the public—too large a "social presence," if you will—to expect it to maintain a perfect record. I imagine large organizations in both the public and private sectors all share this problem.

None of this is meant as an excuse, however. The Service has a commitment to all taxpayers to safeguard their rights in the system, and we constantly strive to improve our record in this respect.

OVERVIEW OF IRS' SAFEGUARDS

We believe the system of safeguards currently in place is working well to protect taxpayers' rights. As I noted earlier, there will always be isolated instances of perceived abuse in an organization as large and diverse as this, but our system includes provisions for correcting these. We take it as an obligation to the taxpayers—who pay our bills too—to constantly monitor our system and improve upon it.

The first step in protecting taxpayers' rights is to prevent abuse. For this reason, our system includes operating policies and procedures which establish both internal and external controls on operating units.

Perhaps the Service's most visible safeguards are the existence of the Taxpayer Ombudsman and the Problem Resolution Program. Mr. Browning will cover these areas in this testimony.

I would now like to briefly describe some of the most important precedural ways in which our systems are designed to prevent abuses. All the procedures I will note are contained in the Internal Revenue Manual, the Internal Revenue Code, or other official documents. Additionally, they are made known to taxpayers verbally and in a number of IRS publications, copies of which have been provided to the Subcommittee staff.

1. Examination division

In examining returns, the Service makes every effort to correctly apply the tax laws enacted by the Congress, to determine the reasonable meaning of various code provisions, and to perform audits in a fair and impartial manner with neither a Government nor a taxpayer point of view.

By law taxpayers are required to produce records to substantiate amounts shown on their tax returns when requested. However, taxpayers have the right to expect that the time and place of the examination be reasonable. When we decide to examine a particular return, we notify the taxpayer in advance of the time and place of audit. Also we notify the taxpayer in writing of verbally what items on the return are being examined and/or what records need to be furnished. Should the taxpayer be unable to keep the scheduled appointment, we make every effort to work out another date or place convenient to the taxpayer.

In all examination proceedings, taxpayers have the right to have someone accompany them or legally represent them. Should taxpayers elect to have legal representation, we require that the taxpayers give their representatives a power-of-attorney covering the specific return(s) under examination. This requirement exists to protect the taxpayers' rights during any Service proceeding, and to protect against unauthorized disclosures of tax return information.

Sometimes, taxpayers do not appear for the examination and/or do not produce all the necessary records. When additional requests to appear and/or produce the records do not provide results, we have two alternatives. First, if an expense item is questioned, we may disallow unsubstantiated amounts and recompute the tax based upon the best available information. Or, if additional information is absolutely necessary to determine the additional tax, we may summon the records. When a summons is issued to a taxpayer or a third party and it is not complied with, a district court must rule on the enforceability of the summons, thus providing another safeguard.

In most instances, taxpayers do turn over the records necessary to complete the audit without the need for a summons. Proposed tax liability changes resulting from the examination are discussed with the taxpayer. In all cases, our procedures require that the taxpayer be informed about why the change is proposed and that he or she can appeal any unresolved examiner findings within IRS or to the courts. If the taxpayer and the Service cannot agree, a formal notification of the proposed tax change is sent to the taxpayer. This notification informs the taxpayer of the specific changes in the liability and that he or she has 90 days to appeal to the court for a review of the findings.

2. Collection Division

In collecting taxes, the Service makes every effort to be fair and impartial, and has several policies, procedures and controls in place to accomplish this. I would like to focus on IRS' procedures for using levies and seizures because these tools can have the most substantial impact on the taxpayer.

"Levy" refers to attachment of a taxpayer's assets in the possession of third parties, such as bank accounts and wages. "Seizure" refers to our seizure of a taxpayer's assets in his or her own possession, such as an automobile, business equipment, or building. During fiscal year 1981, the Service in disposing of 2.2 million delinquent accounts used its levy power about 740,000 times and its seizure power about 8,800 times.

The Service can levy or seize a delinquent taxpayer's property if assessed taxes are not paid within 10 days after notice and demand for payment. However, our procedures are designed to give the taxpayer a reasonable chance to voluntarily settle the tax liability before these more drastic enforcement actions are started. First, one of our service centers normally sends four notices to an individual taxpayer (three to businesses) over a 3-month period. After this, if payment has not been forthcoming, and we have had no other contact with the taxpayer, the account is sent to a district office where further attempts are made to contact the taxpayer. Publications explaining the collection process, as well as what the taxpayer's rights in the process are, are automatically mailed to the taxpayer along with the second tax delinquency notice.

We inform the taxpayer in the final mailing notice that if payment is not received within 10 days or if the taxpayer does not contact an IRS office, enforced collection—levy or seizure—may be taken. While some levy actions may be taken without further contact with taxpayers, we usually attempt to contact the taxpayers by telephone, field visits, or further correspondence to work out alternative ways to pay the tax delinquency before we levy taxpayers' salaries or wages or seize their property. Also, when levies on wages and salaries and seizures are considered, procedures require us to attempt to notify the taxpayers in person that seizure will be the next action taken by IRS.

We have established more controls over the use of seizures than levies. Generally, we do not require written supervisory approval before levy; however, before the seizures are made we require written approval by at least a group manager. On a residence, the next highest level of management approval is required. Also, once seizure action is initiated, the cases are controlled and reviewed for procedural compliance by a special procedures staff within the Collection Division. Before our revenue officers can enter private premises, they must have either the written permission of the taxpayer or a writ of entry from a district court.

In addition to our employee making the seizure, another IRS employee or a law enforcement officer must be present when a seizure is made. This provides a witness to the propriety of the action. Further, the taxpayer is asked to be present when the seized property is inventoried.

If I may digress a minute, Mr. Chairman, I would like to point out one of the problems of public perception we have in the Collection area. Many people have argued that the Internal Revenue Service is too tough in its Collection practices. But that viewpoint is not universal. In fact, the General Accounting Office, in a November 5, 1981, report entitled "What IRS Can Do to Collect More Delinquent Taxes," found that the Service was not always taking enough action to collect delinquent taxes. In reviewing collection actions taken against 1,500 taxpayers in four districts, GAO concluded that the Service was in essence allowing taxpayers to delay or even avoid paying their taxes because, among other things, of our concern for taxpayers rights. This same theory was advanced—humorously—in a recent article in a Portland, Oregon, newspaper. I have included that article with my statement for your information.

My point in mentioning this dilemma is to show how the Service is often in the middle on such issues. We are either too harsh or too soft, depending on who you listen to. We have bent over backwards in many cases to assist taxpayers in meeting their obligations. For example, we frequently allow first-time delinquents to arrange installment payment agreements. However, this type of consideration was one of the points noted by GAO in their report. We are forced to balance the need to try and collect some $20 million in accounts receivable with the need to respect the rights of the individuals who are delinquent. It is far from an easy job, but I assure you we do our best.

3. Criminal Investigation Division

In enforcing the criminal provisions of the tax laws, we attempt to identify and investigate suspected criminal violations and recommend any warranted criminal and civil sanctions. The most frequently prosecuted violations of these provisions are willful attempts to evade tax and failure to file tax returns. We have policies and procedures in place to assure that the individual rights of taxpayers are adequately protected in our criminal investigations. For instance, taxpayers are specifically advised upon the first official contact by special agents that they are under criminal investigation and are provided advice regarding their Constitutional rights at that time. The Service policy in this area exceeds the requirements of established case law. In addition, the recommendations for criminal prosecution are independently reviewed by attorneys in both the IRS and the Department of Justice before they are presented in court.

Our Criminal Investigations Division receives information on potential tax fraud from three basic sources—referrals from the Examination and Collection divisions, its own information gathering efforts, and information leads from other individuals and organizations.

Because Examination and Collection Division employees are involved in auditing tax returns, locating persons who do not file tax returns, and collecting delinquent taxes, they are in a unique position to spot indications of fraud. Their referrals and case records generally provide Criminal Investigation Division special agents enough detailed information to determine if a criminal investigation should be initiated. Special agents augment this information referral program by obtaining information from other sources, such as their own information gathering activities and leads from other "information items."

An information item is a tax-related communication received by us alleging or indicating that a particular individual or business may have violated the tax law. We receive many of these communications from varied sources, such as other Federal agencies, the general public, informats, and other Services employees. The bulk of these items are first screened at our ten service centers to determine their potential for a criminal tax violation, and those having such potential are sent to the districts for further evaluation by special agents.

In December 1979, we revised our guidelines for information gathering activities to include more specific information on the scope of these activities, and required that authorization requests have sufficient information to enable the authorizing official to determine whether the project is justified. Specific written authorization is required before special agents can initiate information gathering efforts designed to determine whether a particular individual, business, or group has violated a tax law. The District's Criminal Investigation Division Chief must approve requests in writing to conduct information gathering on individuals, and the request must specify the known or assumed name of the taxpayer and the reason the information gathering should be authorized. Investigations, known as Information Gathering Projects, in areas of suspected noncompliance must be approved in writing by a District Director or a higher level IRS offical. The authorization must state the investigation purpose, define the scope, and specify the estimated length of the effort and the type of information to be gathered.

4. *Internal audit/internal security*

Internal Audit reviews all IRS activities to determine whether normal management controls are operating properly and whether taxpayers are treated fairly and equitable. Internal Audit performs independent reviews and appraisals of all IRS operations to assure that operations are efficient, effective and in accordance with laws and regulations. This responsibility includes periodic testing and reportings on the effectiveness of interal controls to prevent IRS abuse of authority or taxpayer rights violations.

During fiscal years 1980 and 1981, internal Audit completed 20 audits addressing issues that impact on taxpayer rights. These audits covered such IRS activities as management controls to avoid unnecessary repetitive audits, Service Centers' responsiveness to taxpayer complaints, and the propriety of enforced collection actions. The audit of enforced collection actions covered the increasing use of and alleged abuses involving liens, levies, and seizures, and the impact of these actions on small business taxpayers. Based on the evaluation of 840 randomly selected business tax deliquencies, internal Audit concluded that the enforced collection actions were warranted, and that reasonable opportunity was given the taxpayers to pay their taxes voluntarily.

Internal Audit also works closely with Internal Security in developing and implementing a preventive program to review internal controls, to determine if material fraud exists and to evaluate the effectiveness of these controls in deterring and detecting material fraud. The audits concentrate on IRS programs determined to be most susceptible to breakdown in control and breaches of integrity. In some cases, these audits directly impact on taxpayer rights, such as audits of IRS actions in the collecting and depositing of delinquent taxes and securing delinquent tax returns, suspending accounts from active collection activity, and determining and assessing tax deficiencies.

The Internal Security Division is responsible for administering programs to protect the integrity of IRS. To carry out this reponsibility, Internal Security conducts background investigations of current and prospective employees and performs anticorruption tests to indentify possible integrity violations. Internal Security also makes presentations to IRS employees on our integrity awareness program, their conduct responsibilities, and the consequences of not meeting those responsibilities. However, its major efforts in safeguarding taxpayer rights are in investigating allegations of serious employee misconduct. Such allegations may come from taxpayer complaints; referrals by other Government agencies, IRS divisions, or employees; or from self-initiated integrity investigation projects.

During fiscal years 1979 through 1981, Internal Security investigated 1,687 cases of alleged employee misconduct. As a result of these investigations, 244 employees were separated from IRS, 431 were suspended or reprimanded, and 113 were convicted for criminal activities. These investigations included complaints of extortion, bribery, conflicts of interest, and disclosure of tax information by IRS employees, and resulted in the prosecution of, and/or adverse personnel action being taken against, IRS employees. We believe that Internal Security investigations are of high quality and that case dispositions are appropriate in light of the evidence developed.

Although taxpayers can complain directly to our Internal Security Division, some misconduct allegations also come from our own managers and employees. These managers and employees are made aware of their responsibilities to report certain types of misconduct cases to Internal Security through the IRS handbook on employee responsibilities and conduct, and Internal Security's Integrity Awareness Program. During fiscal years 1980 and 1981, Internal Security made 1,821 integrity awareness presentations to about 47,000 employees.

Generally, supervisors and managers are expected to handle employee problems of an administrative nature such as not following prescribed procedures or treating taxpayers discourteously, while Internal Security Handles cases such as extortion, bribery, and conflicts of interest. Also, if after initial evaluation of an allegation, Internal Security determines that employee misconduct does not warrant an Internal Security investigation, the facts of the case will be sent to IRS management for any needed administrative action.

In addition to investigating allegations reported to it, Internal Security does some searching on its own. During fiscal years 1980 and 1981, Internal Security spent considerable time on integrity projects to assess the extent of criminal conduct occurring due to internal control weaknesses or through circumvention of controls, and identified 281 cases requiring investigations. For example, in one project Internal Security identified an employee who was selling confidential tax information. After a full investigation, the employee was dismissed and prosecuted, and was sentenced to one year in prison and fined $1,000.

ROLE OF TRAINING IN SAFEGUARD SYSTEM

The procedures that I have just discussed are designed to protect taxpayer rights. However, they will be effective only to the degree that our employees have the knowledge and ability to carry them out. In this respect, the Service has an extensive training program, offering over 500 courses in fiscal year 1981.

The amount of required classroom training is substantial. For example, during their first five years, revenue agents receive about 24 weeks of training, and revenue officers receive about 12 weeks. In January 1982, the training for our special agents was redesigned, and increased from 17 to 30 weeks of formal training during these employees first few years. In addition to the classroom training, our employees receive structured on-the-job training. We also have a formal program for continuing professional education.

Safeguarding taxpayer rights is an integral part of our activities. Therefore, instead of providing a specific training course on the subject, points on safeguarding taxpayer rights are included where needed in all training programs. For example, in the revenue officers' initial 7-week training program, one section deals with safeguarding taxpayer rights and, in addition to listing examples of those rights, stresses that taxpayers should receive prompt, courteous, and impartial treatment. The training also teaches that, when dealing with taxpayers, revenue officers should empathize with the taxpayer and initially assume that the taxpayer wants to comply.

INTERNAL AND EXTERNAL CONTROLS

Devising policies, procedures, and training is not enough; Service management must also have information on how well the system is actually safeguarding taxpayer rights. Recognizing this, we have devised controls both internal and external to our operating divisions to assure that policies and procedures are being properly implemented and are providing adequate protection of taxpayer rights.

One example of a primary internal control is supervisory review of work performed by subordinates. In our Collection Division, group managers provide first-line supervision of collection activities and employees. Collection cases are assigned to different-graded employees on the basis of case difficulty. Group managers receive monthly listings of cases to assist them in controlling and reviewing their groups' workload. In addition, our procedures require group managers to review and analyze case files, as well as to accompany their employees on field visits and observe office interviews. The reviews and analyses may be unannounced, and can take place as often as the group manager feels is necessary. The objectives of these reviews and field visits are to assure that revenue officers are following Service policies and procedures, and to help revenue officers improve their collection techniques.

External controls include post reviews and internal audits. Our regional offices periodically review districts' activities. During these reviews, regional offices have evaluated the districts' use of such tools as levies and seizures, including the appropriateness of that use, as well as all district activities, including how well district employees safeguard taxpayer rights.

CONCLUSION

Mr. Chairman, I think my testimony here has covered the Service's systems for safeguarding taxpayers' rights in sufficient detail to show that we are sensitive to these rights and we are constantly striving to improve our methods of protecting them. We welcome constructive suggestions from all quarters on ways to improve them even more.

My colleagues and I will be pleased to try and answer any questions you and the other members may have.

Mr. **Egger**. In my statement, I referred to the lead role of Mr. Browning, and the problem resolution program which he oversees, in safeguarding taxpayers' rights. He will have a good deal more to say about that later. I also provided information on the roles played by our internal and external control systems as well as the training on safeguards we provide to our front line compliance personnel. Taken together, these factors indicate not only the presence but also successful operation of a rather comprehensive system of safeguards.

At the same time, Mr. Chairman, we recognize that isolated instances of perceived abuses are bound to occur in any organization as large and as diverse as the Internal Revenue Service. With taxpayer contacts of all types running close to 50 million a year, we simply have too high a social profile to maintain a perfect record.

I do not offer this as an excuse. We recognize full well our obligation to all taxpayers to have adequate safeguards, and we try to provide them to the best of our ability.

Mr. Chairman, before turning to some of the specific matters that were dealt with earlier today, I would like to say that we are well aware of the frustrations that sometime accompany a very highly complex tax law. These frustrations accompany some of the problems that we have to go through in order to attempt to deal with the huge problems of collection, and examination, and criminal investigation, without violating taxpayers' rights. Obviously, I, as the manager of this giant agency, need to know of problems so that we can deal with them. To the extent they are systemic, we attempt to deal with those as well, in order to avoid a repetition. I assure you that these hearings have great significance to us from the standpoint of being able to identify further areas that need attention, as well as to attempt to explain things which create improper perceptions in the minds of taxpayers.

Let me start the specifics with the testimony by two members, Congressman Don Young and Congressman George Hansen. I would like to point out that last summer, extensive hearings were held in the State of Alaska. Unfortunately Congressman Young could not be present. Taxpayers in the State of Alaska were given an opportunity to come forward and discuss any abuses that they felt were being placed upon them. There were two solid days of hearings. I attended most of it, but unfortunately had to leave. Nonetheless, top Service officials from Washington participated in the hearings. We asked for waivers from the taxpayers at that time, so that we could discuss the matters openly, and the record in those hearings is extensive.

However, I will point out that only one possible systemic problem, which we are attempting to rectify, to came out in those hearings. This is true notwithstanding the rather extensive publicity that the hearings received. Therefore, I would like very much to have Congressman Young provide us with some further documentation so that we can see whether or not there is some major area that was missed in those hearings.

With respect to Congressman Hansen's discussion this morning, I have been well aware for sometime of Congressman Hansen's strong feelings about the Internal Revenue Service and some of our procedures that he refers to as gestapo tactics, with which I disagree completely.

Once again, we are having great difficulty in attempting to respond to Congressman Hansen's charges because, for the most part, they are unsubstantiated and undocumented. I trust that we will be provided with such documentation as has been furnished the subcommittee, so that we can provide a complete response for the record.

Insofar as some of the things that he referred to here, they have been made a matter of investigation by the Inspector General of the Treasury Department, with my concurrence and approval, and I look forward to a public statement concerning that investigation once it has been completed.

Now let me deal with the taxpayers that have testified here; first, with respect to Mr. Stuart Greenfield. The allegations which Mr. Greenfield made were reviewed by me, because of the expectation that he was going to testify with respect to the seizure of the boat. Complete and comprehensive affidavits with regard to his charges were prepared in 1971 and filed with the Tax Court. To the best of my ability and that of anyone else, we are unable to uncover any real indication that the abuses to which he referred took place.

We did in fact effect a seizure of his boat, and certain personal property on the boat because we had a pretty sound indication that it was his proposal or plan to leave the country. That was the reason for the action taken at that time.

I will provide the subcommittee with a factsheet which will go into considerable detail but, unfortunately, some of the people who were involved are no longer with the Service, recalling that this action took place about 12 years ago. We will do our best to deal with the matter in as much detail as possible.

The next witness I would like to comment on is Mr. Snyder.

Chairman RANGEL. Excuse me. The witness had indicated that the alleged harassment was a continuing one up until the day of his testifying, up until today. Is his case active with the IRS?

Mr. EGGER. There has been a court action to reduce to judgment the tax deficiencies owing Internal Revenue, and that is simply to avoid the running of the statute of limitations.

This is fairly common practice, and we have done it in a number of instances. This is the only ongoing action that I know about.

In the case of Mr. Snyder, we are somewhat at a disadvantage here, because Mr. Snyder did not furnish a waiver. Therefore, the only things we can properly talk about are those things which are a matter of public record, and in the courts.

I would point out that Mr. Snyder was indicted, arrested, and tried, and in December 1981 was convicted on two counts of evasion, one count of concealment with intent to defraud, and three counts of failure to file income tax returns.

That matter is still in litigation, and I shall not have anything further to say about it because, as I said, we do not have a waiver. I was disappointed when Congressman Crane characterized these statements as outrageous, thus leaving us at a considerable disadvantage, since there is no waiver on record, and therefore, we have no ability to refute any of these charges.

Chairman RANGEL. I don't think that you are restricted from commenting on the matter that was published in the Parade magazine or the allegation of things that occurred in front of Mr. Snyder's family.

Mr. EGGER. I believe, Mr. Chairman, there is a real question there, and disclosure counsel has advised that we do this very carefully. What we intend to do is to go through the record and see what we can properly talk about. Then we will provide a full statement for the record as best we can under the circumstances.

Chairman RANGEL. All right. I think the Commissioner is saying that the case is an active one, and the fact that the witness did not request a response from IRS. In other words, all the witnesses were informed by staff that if they wanted IRS to respond, then they would be waiving their rights of privacy as relates to the committee, and the Service's response.

Mr. Snyder, through counsel, had indicated that he wanted to state for the record what he saw the problem to be, but he did not ask that a public response come from IRS, nor did he waive his rights to privacy, so that IRS is saying that through counsel they still believe that they cannot respond to the public charge.

Maybe we ought to have counsel explain it. The fact that a taxpayer makes the allegation publicly, you are saying, Commissioner, through counsel, that you still believe that that taxpayer, notwithstanding the public statement, still is protected as relates to the rights of privacy, as it relates to the conduct, alleged conduct of IRS officers?

Mr. EGGER. That is correct Mr. Chairman. That is my understanding.

Chairman RANGEL. You may pursue this further, if you want. Our staff informed me that we had some disclosure authorization system set up. I think we can get an answer to this for the record. I recognize Mr. Snyder's counsel. He is still with us. Is there any part of this exchange that you differ with?

State your name again, for the record?

Mr. TRANAKOS. My name is Arthur Tranakos, Mr. Snyder's attorney. The matters that we introduced to the committee related to the year 1971. The matters the Commissioner spoke to were 1973, 1974, 1975. There are no restrictions. The reason we did not give blanket authority was because we wanted to specify exactly what the Commissioner could expose to the public.

He has sought to discuss matters outside the realm of what we are introducing, which is of no problem anyway, but we will certainly open up to the committee's investigation the matters that are matter of public record today, and that is the revenue agent's report, and the accountant's calculations. Those items are matters of public record.

They were introduced in the criminal trial for the latest years. The entire matter of the search and seizure that was promulgated in February 1980 to collect a trumped-up tax liability for 1971, the one that did not have any deduction for expenses, that matter has been introduced.

It is a matter of public record as far as the Parade magazine is concerned. Slides were presented in court. Pictures were presented in court. This committee will have those pictures available to them, in addition to the Parade magazine, so we are not restricting the Commissioner's authority to divulge anything relating to the year 1971.

We encourage it and we will waive it to that extent, and we plan to prepare a limited waiver so that that matter can be aired to this committee.

Chairman RANGEL. May the record indicate that the Chair has asked Mr. Snyder as to whether or not the waiver, the qualified waiver given by his counsel is given with his consent, and the Chair would indicate that Mr. Snyder has nodded in the affirmative.

Mr. EGGER. Mr. Chairman, without seeing the wording of the limited waiver and having it in our possession, I am most reluctant to go into things which might constitute a violation of section 6103 of the IR Code.

Chairman RANGEL. I am going to ask counsel to provide that waiver in writing, and in the event that it is produced, do you or your staff at this time have sufficient evidence to comment on the allegations which purport to be criminal behavior on the part of the Service?

Mr. EGGER. Yes, indeed. Two of the agents who were participants in that seizure are present and available to testify so there is no problem there.

Chairman RANGEL. In that event, I would direct staff to get together with counsel and to provide the necessary written waiver now, and you can continue your testimony, and I think that we will be able to work out something this afternoon. They are working that out, Commissioner.

Mr. EGGER. Thank you, Mr. Chairman. The next witness was Mr. Blaine Friedlander. Mr. Chairman, there is not much we can say about this matter except that the interference, if there was interference, on the part of any member of the staff of IRS and this 16-year series of litigation had to do more with private matters which are outside the scope of the Internal Revenue Service than anything to do with IRS.

Chairman RANGEL. Let's see if I can frame the problem as I understand it, and members of the committee will feel free as they always do, to interrupt. Mr. Friedlander was saying that he represented a church that had problems with one of its members.

That member happened to be also an employee of the Internal Revenue Service.

Mr. EGGER. That is my understanding.

Chairman RANGEL. In the course of that dispute, this employee of the Internal Revenue Service misused and abused his office to imtimidate the church as related to tax matters, and that this person, they believe, is still an employee of the Internal Revenue Service.

Mr. EGGER. Yes.

Chairman RANGEL. Could you enlighten us?

Mr. EGGER. Let me elaborate just a bit.

Chairman RANGEL. Yes.

Mr. EGGER. You have stated it correctly, and my understanding is exactly that. The problem which the church or the child care center had was with regard to employment taxes which had not been paid, and that issue or those issues arose in a completely routine fashion. Our investigation discloses that they did not arise because of any interference on the part of Mr. Charles Williams, who is an attorney with the Chief Counsel's Office of Internal Revenue.

However, because of the allegations that were made by Mr. Friedlander and others, there was an internal investigation in 1967, which concluded that Mr. Williams had used, in an unauthorized fashion, some Internal Revenue Service letterhead stationery in correspondence concerning the church.

At that time, action was taken to reprimand Mr. Williams, and the letter of reprimand, as is usual practice, went into his personnel file.

The statement that we took it out 4 years later is again simply part of the regular procedure. Letters of reprimand go into an employee's file, and if there is nothing further on that matter, it is removed later.

I would like to just interrupt myself here, and say that typically we would not provide this kind of information because of the Privacy Act. However, this is a proper inquiry on the part of this subcommittee, so we are disclosing matters which would otherwise be protected by the Privacy Act, namely internal investigations.

Chairman RANGEL. There is no internal investigation going on now as it relates to this employee, is there?

Mr. EGGER. Yes, there is.

Chairman RANGEL. There is?

Mr. EGGER. I would like to say that in 1977, there was another investigation. This one had to do with the apparent interference in a collection matter by this attorney. He apparently contacted the revenue officer who was involved in the collection matter.

He did not participate, but he did contact the revenue officer, and so, once again, he was reprimanded.

Now, we are in the process of an ongoing investigation which is nearly complete, and as soon as it is complete Mr. Chairman, this subcommittee will be provided with the results of that investigation.

Chairman RANGEL. Very good. Without going into the ongoing investigation, is it your testimony that the extent of the abuse of office of Charles Williams as it relates to the church and the church trustees and the church members was the misuse of government stationery?

Mr. EGGER. Yes, and the improper contact of the revenue officer in connection with the collection matter in 1977.

Chairman RANGEL. I just wanted to stay out of the 1977 matter.

Mr. EGGER. The 1977 matter has been concluded. That investigation has been completed.

Chairman RANGEL. But before you began that investigation, you had already investigated the 1967 allegation?

Mr. EGGER. That is correct.

Chairman RANGEL. As related to stationery, IRS stationery that was used or misused by the employee?

Mr. EGGER. Apparently in correspondence concerning the church itself, yes.

Chairman RANGEL. Concerning the church itself, he was using stationery as though he was a Federal agent, rather than stationery as though he was a person that had a problem with the church.

Mr. EGGER. That is correct.

Chairman RANGEL. And you didn't find any evidence to support that he initiated any IRS investigations or that he abused this office any further than the fact that he misused government stationery?

Mr. EGGER. That is correct. To the contrary, we found that the matters which are tax matters arose in an entirely routine fashion.

Chairman RANGEL. And, of course, when a witness allows this to be public, then clearly the record would indicate that this matter was brought to the attention of the Service?

Mr. EGGER. That is correct, it was.

Chairman RANGEL. Are there any dates that you would be relying on to show that perhaps—I don't know—that prior to the dispute that the employee had with the church, that you already were aware of or had taken any action at all as related to employer deductions?

Mr. EGGER. I am not sure I fully——

Chairman RANGEL. What I am trying to say is that clearly an allegation is made that the church had a problem with a citizen——

Mr. EGGER. Yes.

Chairman RANGEL [continuing]. Who turns up to be an IRS agent. Subsequent to that dispute, they end up with a whole lot of tax problems. You are saying that they would have had the tax problems in the ordinary course of business?

Mr. EGGER. That is right.

Chairman RANGEL. And I am asking what those records show, and I am not saying that it would have to, but it would certainly help if it would show, that the church's tax problem arose prior to the time that they had a problem with the church member.

Mr. EGGER. Excuse me a minute.

Chairman RANGEL. Is that question clear?

Mr. EGGER. Mr. Rebein, who is the head of our Internal Security——

Chairman RANGEL. He can sit right up there, make it easier.

Mr. EGGER. Yes, why don't you do that? This is Robert Rebein, Assistant Commissioner for Inspection, and I would like him to give you the details.

Chairman RANGEL. What I am trying to do is, you will have enough problems with allegations that you won't be able to answer. Clearly, this is a case that you are familiar with and has caused the church and Mr. Friedlander a lot of problems.

I am not going to get involved in the 1977 matter, but my question, just to repeat it, is there any evidence in Internal Revenue Service files to point out that this church, its problems with employer deductions, was before the IRS before Mr. Williams misused the IRS stationery?

Mr. REBEIN. There is no evidence that we have found, including the current investigation, that our employee generated any type of tax deficiencies or difficulties for the church or its members.

Chairman RANGEL. Is it possible for you to tell this committee how the church's tax problems were generated?

Mr. REBEIN. I know in one allegation which he made, where several of the board members were audited simultaneously, it seemed to be by coincidence, and the allegation was made by Mr. Friedlander that the audit had been generated by our employee.

We checked the records and found that those particular examinations were computer-generated.

Chairman RANGEL. OK, but were the church's problems computer-generated as related to the employer deduction?

Mr. REBEIN. It is my understanding, yes, sir, I will have to check to be specific.

Chairman RANGEL. I wish you would.

Mr. REBEIN. Yes.

Chairman RANGEL. Because, again, we are not just talking about abuse. We are talking about perceptions, and there is nobody in this room would not believe if they had a problem with one of your employees, and then they had a problem with your Service, that there is not a connection, so if the computer can help us out, I promised Mr. Friedlander and the church on behalf of the committee, and I guess you were here when I had my dialog with the Commissioner.

I think it is helpful for the system to cooperate and go as far as you can legally to deal with the problems, especially when people have the courage to come forward and to say what they believe, and if we can't answer what they believe, then the whole Government is in trouble.

Mr. Duncan.

Mr. DUNCAN. Mr. Chairman, I think the individual cases are very important, but what I would be interested in is what you do generally when an agent violates either the tax laws set forth in the Code or the IRS policies and procedures as set forth in the Internal Revenue manual.

What steps have you taken other than a reprimand? Have you gone any further than a reprimand?

Mr. EGGER. Oh, yes, indeed, Mr. Duncan. We have taken other action. We have suspended employees. We have dismissed them, which is about the only steps that we can take, except where there is evidence that there has been a criminal violation. In that case, we would be certainly putting forward efforts to prosecute such people, as we have done in the past.

Mr. DUNCAN. Another matter that has bothered me for some time, and I have been directly involved in, not on my own tax, but we often receive complaints from taxpayers similarly situated that they are treated differently because the IRS agents in different districts interpret and apply the law differently.

I would like to know what you are doing to have consistency in the law. I refer to the case when in one jurisdiction a Federal district judge issues an opinion and the Government fails or chooses not to appeal, and, therefore, the Service in all the other districts of the country are not applying that same law.

It is the desire of the Service not to appeal it. This, I think, any fair person would agree is wrong. You should have appealed it or you should apply the same rule everywhere.

Mr. EGGER. Frequently, Mr. Duncan, the decision to appeal or not to appeal a particular decision doesn't rest solely on the question of whether we agree or disagree with the conclusion, there may be other circumstances present.

We pay attention primarily to the Department of Justice and their views on whether to appeal or not to appeal, although we obviously have input to it.

Our position is that where we feel that a court decision is not a proper interpretation, we try to have it resolved in the appellate process within the courts.

Chairman RANGEL. If you consider it not a proper one and you don't appeal it, then do you think that all the people of that particular district should have preference or people in another district?

Mr. EGGER. It is only because in a given district there would be no particular point in us relitigating an issue in that same district, so we have little or no choice in these circumstances.

Chairman RANGEL. Apparently, the Service has chosen not to appeal, then it would require the people in all of the other jurisdictions of the United States to file themselves. Again, it seems to me quite unfair to require that. I was just wondering what you were doing to improve the efficiency.

It is the most unfair thing.

Mr. EGGER. The only thing that I can say to you is that here again it would be much more of an abuse, I would think, if we forced taxpayer after taxpayer to go back into the same district court on an issue and relitigate something on which we already have that court's opinion.

Mr. DUNCAN. In that district. You are not recognizing it in other districts?

Mr. EGGER. Not where we do not agree with the decision. We relitigate the decision in another jurisdiction. It frequently happens, and that is the way cases get to the Supreme Court.

Mr. DUNCAN. I don't think that is the proper intent of the law. From your beautiful record, I just can't believe that you believe that way, either. I know that you are sort of condoning what has been done in the past, but I find no one that would be in agreement that that is the fair way to treat taxpayers.

Mr. EGGER. I cannot answer, of course, why we didn't appeal any particular case. That is very understandable. It doesn't happen regularly.

Where we disagree with the opinion, by and large we do appeal it, but there may be certain circumstances—and I can't tell you what, unless you identify the case—where we have not done so and why. I would be happy to supply you and the subcommittee with that information in any specific instance.

Mr. BERGHERM. If I could respond for operations, let me add to the Commissioner's statement.

The Service does take extensive measures in an effort to reach a uniform result in terms of the way the tax laws are interpreted. In that regard, there is a technical coordinator appointed in each of the 59 districts whose chief responsibility is precisely that, seeing that that particular district has brought to its attention those matters of interpretation which pertain to the business of tax administration.

One other method of seeking to have uniform application of the interpretation of tax statutes is the process of continuing professional education, which involves a quarterly meeting of technical personnel in each of the field districts for review of current matters that have been decided that bear upon the interpretation of tax statute.

Mr. DUNCAN. If you think that a decision isn't equitable and fair, don't you think you should appeal it? If it is one that you don't intend to recognize in another district? Or one wherein you treat taxpayers who are similarly situated the same way?

Mr. BERGHERM. The problem you are directing your question to arises by reason of the various jurisdictions of the circuit court of appeals throughout the country. Those issues which I would describe as a gray area where knowledgeable judicial authorities have decided differently on similar issues can be a variation in terms of the particular issue going up under the jurisdiction of a particular Circuit Court of Appeals.

Mr. DUNCAN. If a decision is made for the first time on an issue, and you have not heard other opinions in other districts, why wouldn't you appeal that case if you thought it was wrong?

Mr. BERGHERM. If the Service in good conscience feels that the interpretation made in a particular circuit might be dealt with or decided in a different fashion in another circuit, it would exercise the opportunity to bring that issue up——

Mr. DUNCAN. Aren't you substituting your opinion for a mechanism of judicial process?

Mr. BERGHERM. I don't believe the Internal Revenue Service is doing that. I think the Internal Revenue Service——

Mr. DUNCAN. I just took what you said now, that if you thought it was wrong, you didn't want to appeal it, but you wouldn't exercise the decision.

Mr. EGGER. There may be factual situations in a case which cloud the issues to such a degree that it is not a good vehicle for resolving that issue in the court of appeals. Therefore, between our counsel and Justice Department, the decision is made not to appeal.

It does not happen frequently, but there are certainly instances of it. It does not indicate that we believe the issue is closed.

Mr. DUNCAN. Let me go to one other question. I see we are not getting too far on this. In fact, we have some legislation pending to address this situation.

I have a communication here, which I will read. "The officers are rated as field agents on the basis of funds collected. Promotions compare the gross number of cases taken and the success of cases won against cases lost. A case still open does not count as much as one lost. So, it is kept open regardless of its merit. It becomes incumbent on an agent to make the case."

Would you respond to that? I must respond to that to my constituents.

Mr. EGGER. I did not hear where the communication was from.

Mr. DUNCAN. It indicates that you rate the agents on the basis of funds collected. Is that true?

Mr. EGGER. Not true.

Mr. DUNCAN. Do you compare the number of cases, success of cases won, against those lost?

Mr. EGGER. Mr. Duncan, we have gone out of our way to make sure that agents and revenue officers are not evaluated on the basis of dollars collected or any other numerical evaluation.

Mr. DUNCAN. I am pleased to hear that.

Mr. EGGER. We clearly are interested in productivity, but we do not do that and it is specifically contrary to instructions in our manual.

Mr. DUNCAN. Do you think there should be a time limit on when a case is investigated and carried through to completion?

Mr. EGGER. I would like to think that we could do that, but I know that cases sometimes become very, very involved and not all of the delay is necessarily because of what the revenue agent does or doesn't do in the case.

Frequently issues have to await lengthy analyses, sometimes they are referred from the field to the national office for technical advice. Also, from time to time, taxpayers properly and understandably request extensions of time in order to complete certain phases of the case and so on.

There is no question but that it is in our interest—that is, our speaking for the public interest—to close the cases as expeditiously as we can possibly do so. And it is not in our interest to extend over long periods of time the processing of cases. Records get lost, people forget and many other things happen.

Mr. DUNCAN. Thank you very much. I appreciate your frankness.

Thank you, Mr. Rangel.

Chairman RANGEL. Commissioner, I think your counsel has the statement from Snyder's counsel. Is that sufficient to take care of things?

Mr. EGGER. There is a little bit of a problem because some of this involves 2 years, 1971 and 1972, and we have only received a waiver on 1971. So, what we can do is ask the agent to come and talk about the seizure, although there will be certain aspects of it that he cannot talk about.

Chairman RANGEL. There is a concern by Members of the Congress whether the taxpayer is right or wrong, liable or not liable to the conduct of public officials in exercising any responsibility.

Now, notwithstanding the testimony of Mr. Snyder, we have a story which obviously was interviewed, which is consistent with his testimony this morning, that on an occasion in 1970 or 1971 either 2 dozen or 40 U.S. marshals, State patrolmen, IRS revenue agents with M-16 automatic rifles, shotguns, and sidearms did in fact break into Mr. Snyder's home in the presence of his wife and child and——

Mr. EGGER. I am going to ask the agent to come up here and testify because for 1972, at least, this is a matter of public record insofar as the seizure is concerned. This is where most of the discussion took place and we will be able to discuss that.

I would now like to ask the agent to come up. Mr. Temple will be the witness.

This is Donald Temple, special agent with the Baltimore district, and he will discuss the events leading up to the seizure and the seizure itself.

Chairman Rangel. Mr. Temple, you may proceed.

Mr. Temple. Good afternoon.

Chairman Rangel. Are you familiar with an article that appeared in Parade magazine on April 12, 1981?

Mr. Temple. Yes, sir, I am.

Chairman Rangel. Would you tell this committee, were you present there at the home of the Snyders on the date in question?

Mr. Temple. Yes, sir, I was present on the property.

Chairman Rangel. How many law enforcement officers were with you at the time?

Mr. Temple. I believe there were 19 law enforcement officers. There were nine Criminal Investigation Division personnel——

Chairman Rangel. IRS?

Mr. Temple. Yes, sir. Two inspectors with the Internal Revenue Service were there to watch the activities of the other IRS employees, to be certain that nothing was conducted in an improper manner, as well as eight U.S. marshals and two State policemen.

Chairman Rangel. Were you armed?

Mr. Temple. Yes, sir, I was, the other Criminal Investigation Division people were armed, and the inspectors were armed.

Chairman Rangel. What type of weapons did you have?

Mr. Temple. Either five- or six-shot .38 caliber handguns. The U.S. marshals were carrying shotguns and semiautomatic rifles.

Chairman Rangel. What was the purpose of your mission? To do what?

Mr. Temple. Actually, it was a Collection Division activity, to collect taxes that Mr. Snyder owed to the Internal Revenue Service. [Laughter.]

Chairman Rangel. I would appreciate it if we are going to conduct a hearing if we could not laugh and make audible responses.

You were going to collect taxes?

Mr. Temple. Yes, sir.

Chairman Rangel. Why was the group so heavily armed? What did you expect as a result of this mission?

Mr. Temple. Several reasons. No. 1, Mr. Snyder had made implied threats to the Service employees in the past. This activity began in 1975 or 1976, I believe——

Chairman Rangel. What is an implied threat?

Mr. Temple. A situation where—I am leading into that. A tax liability was assessed against Mr. Snyder for the——

Chairman Rangel. Let me ask this. Did you have reason to believe that these agents had to worry about their personal safety?

Mr. Temple. In my opinion they did.

Chairman Rangel. Did the taxpayer, was he known to belong to any organized group?

Mr. Temple. The comment he made to the revenue officer, at the time he was initially contacted relevant to the collection of his tax liability, he asked the revenue officer if he knew what the posse comitatus was and if he didn't, he better find out. He also told him later that if he took any illegal actions against Mr. Snyder, he (Mr. Snyder) would take action against him.

When you take into context we were in a Western Maryland county quite a distance from any other Federal agency, where, if a problem did arise, we could find ourselves in a serious situation and we wouldn't be able to receive any backup support from any of the agencies——

Chairman RANGEL. Wait a minute. You would need all of that support for the taxpayer, his wife and his 4-year-old daughter?

Mr. TEMPLE. The problem is in addition to the comments that Mr. Snyder had made, I found myself on Mr. Snyder's property and other IRS employees have found themselves where, within minutes of arriving at the property, several other people in the community who belonged to a tax protest group would surround cars. A revenue officer had gone to an airport to look at airplanes——

Chairman RANGEL. This wasn't the first trip to Mr. Snyder's house?

Mr. TEMPLE. Are you talking about 1980?

Chairman RANGEL. I am talking about whatever happened that was reported in Parade magazine. Let's make sure we know what we are talking about. All of the shotguns and the armed IRS and whoever else was there, to collect taxes from Mr. Snyder, that is the story that was reported in the Parade magazine, and this is what you are testifying to?

Mr. TEMPLE. Yes, sir.

Chairman RANGEL. You are saying there was an implied threat made, so that is the reason why the people were so heavily armed?

Mr. TEMPLE. That is the reason the IRS employees were armed. The threats occurred in 1975, 1976, 1977, 1978.

Chairman RANGEL. What we are trying to find out is, is this a normal way to collect taxes? I mean, are the IRS agents or people with them heavily armed?

Mr. TEMPLE. Normally when IRS employees, Criminal Investigation Division employees, accompany revenue officers to collect seizures, they are armed. In this particular situation, the U.S. marshals were asked to go along on the seizure because we had obtained a court order a writ of entry, to obtain access to Mr. Snyder's property to collect the tax liability.

Chairman RANGEL. How did you intend to collect it?

Mr. TEMPLE. By seizing assets—cash, equipment, things of that nature—that Mr. Snyder had while allowing him to keep enough equipment left on the premises so he could continue with his trade or business.

Chairman RANGEL. What notice was given to Mr. Snyder that you people were coming there to seize assets?

Mr. TEMPLE. We didn't let Mr. Snyder know that we were coming that day. Mr. Snyder had been contacted on several occasions prior to February 1980 and asked to pay the tax or in some way resolve the problem.

There was one letter in the audit file that indicated Mr. Snyder was not happy about the 1971 tax liability and a response was sent to Mr. Snyder, as I recall, that indicated he had an option: He could pay the tax and file a claim for the refund or send the Internal Revenue Service a tax return indicating what he felt he owed the Service for 1971.

Chairman **Rangel**. Is that the last official correspondence that your office had with Mr. Snyder before you came there to collect the taxes on your own?

Mr. **Temple**. No, sir. I couldn't begin to give you the number of contacts that were made. There were several others.

Chairman **Rangel**. I don't want you to begin. All I wanted to know was what was the last notice that you know of, in the record, that was sent to Mr. Snyder so that he might suspect that this was about to occur? That is all?

Mr. **Temple**. I don't know offhand. There is a revenue officer present. I think he could probably better answer that question as to the last contact with Mr. Snyder.

Chairman **Rangel**. Commissioner, is this the normal way that the IRS would do business, assuming that you have a taxpayer that has a very serious dispute as to whether or not he owes the amount charged or whether he owes anything?

You have heard what the IRS employee has said, that he and others, law enforcement officers, heavily armed because of an implied threat, were there to seize property. Now, I want to know——

Mr. **Egger**. I must tell you, Mr. Chairman, that this was a highly unusual situation. My understanding is that over a period of years an apprehension had been built up on the part of our Service personnel who had been in contact with Mr. Snyder. Although there had not been any perhaps overt acts of violence or overt acts of intimidation, but on successive occasions when they visited the property, as Mr. Temple already said, all of a sudden there would appear a number of other people. From time to time, vehicles were moved in to surround the vehicles of our personnel and so on. So, you begin to feel very uncomfortable.

This place is a good 4 hours away from Baltimore. They had every reason to believe that the circumstances were such that this kind of activity could possibly be met with resistance of some kind. They didn't know.

At the time they got there, they seized a number of rifles and shotguns, some of which were loaded——

Chairman **Rangel**. From the Snyder's?

Mr. **Egger**. From the Snyders. They were unloaded and returned to Mr. Snyder when the people left. This was a very difficult seizure, a large property, heavily wooded, and our people felt that they needed this protection.

So far as the U.S. marshals are concerned, they ordinarily make their own decision about going armed. As far as our people are concerned, none of our special agents carry weapons unless and until they get approval from the head of the group.

We do not normally carry sidearms or any weapons of any kind. So the arms of our people, as characterized, were handguns. We do not supply our people with automatic weapons because they are not required.

The weapons are for protection, and we have had probably more difficulties in collection activities, assault, and that sort of thing, than any other activity the Service engages in. If I were a revenue officer who went into those kinds of circumstances, I would want protection, too.

Chairman **Rangel**. Mr. Duncan?

Mr. **Duncan**. I have no further questions.

Chairman **Rangel**. We have not finished with the witness, I mean, following this line?

Mr. **Crane**. Following this line, Mr. Egger, I would like to ask a question given the case that we are discussing here.

There were only eight IRS agents; is that not correct? Is that what you said?

Mr. **Temple**. I believe there were nine, actually.

Mr. **Crane**. The total personnel there numbered 39?

Mr. **Temple**. Thirty-five sticks in my mind. The number of people there included tow truck drivers and moving people. Two of the people were State policemen, who were actually directing traffic on Route 219 in front of Mr. Snyder's property, one lane in each direction.

With the number of tow trucks, the locksmith, and moving van, it wasn't always possible to get everyone on to his property. There was a little bit of a traffic problem that had to be resolved.

If I might add one other thing, there were actually 29 Government employees. That would exclude the tow truck driver, the moving van people, and so forth.

If I could make one more comment about weapons. The Commissioner commented on the marshals. When we initiated this action, we asked two marshals to go along because, as I understand it, if we have a writ of entry, Service personnel cannot force entry onto the taxpayer's premises. It is a court order, and only the marshals can do that.

We asked for two marshals, one to force entry on Mr. Snyder's shop and one——

Chairman **Rangel**. Did you have a court order?

Mr. **Temple**. A writ of entry is the court order. We asked one marshal, if necessary, to make entry into Mr. Snyder's shop and one to enter his home. They wanted some background information since they were going along. I understand that they normally travel in teams. That automatically meant we would have four marshals, two at the shop and two at the home.

When they found out about the posse comitatus and other things relevant to the posse, it was the marshals' idea to take eight armed marshals as opposed to two unarmed marshals. We went up with four marshals with shotguns and four marshals with semiautomatic rifles.

Mr. **Crane**. The reason I ask this question is we are all familiar with some of the activities of some of the mountain folks with the "revenooers" in actually taking up arms against them. The idea is the necessity of IRS people to be carrying arms, period, when you have access to duly constituted authorities, as in the case of the U.S. marshals and in this case, as you indicated, eight armed marshals were accompanying you.

Was there a historical record in that community of people that ever took any kind of violent action against any legally constituted authorities? What caused the marshals to be so apprehensive? Were they familiar there were people there that had shot at marshals before?

Mr. **Temple**. They weren't familiar with anything in that particular area. I don't know of anyone in that area that ever harmed an

IRS employee or other Government employee. I think the thing in the back of our mind was we didn't want to be the first.

The other situation was that the marshals had done a great deal of background investigation and obtained a great deal of information relative to the posse comitatus in Michigan or Minnesota.

They were quite concerned that if the posse did exist in that area—and again this was not based on an anonymous informant or some other information, it was information supplied to the revenue officer by Mr. Snyder—we didn't know if he was serious about that or not.

Quite honestly, no, no one had ever been hurt. We didn't want to be the first with that problem.

Mr. CRANE. What arms did the marshals carry? Did they have machine guns?

Mr. TEMPLE. They were not machine guns, they were semiautomatic rifles.

Mr. CRANE. Who carried the shotguns?

Mr. TEMPLE. There were four teams of two marshals. Four marshals, one in each team, had a shotgun and one had a semiautomatic rifle.

One of the places that the writ of entry covered was a nearby farm, the property of a friend of Mr. Snyder's, Ralph Lichty. We had information that a mobile home which we believed belonged to Mr. Snyder might be located on that property.

While we were at the property—I was there with two marshals and a couple of revenue officers who were in the Collection Division, we were in airport hangars, coming back and talking to Mr. Lichty, a gentleman that I became familiar with in Oakland, Md.—a Mr. Ashby—drove up to the property with a snowplow on the front of his jeep, or some other sort of four-wheel drive vehicle.

One of the marshals was standing in the middle of the driveway as we were talking to Mr. Lichty, I was to the left or right and another marshal was standing alongside of the driveway, when Mr. Ashby came up the drive at a fairly good rate of speed and he stopped 4 or 6 inches from the marshal with the snowplow. That was not a very comfortable feeling because I was standing in the driveway, too.

Chairman RANGEL. Will the gentleman yield?

This occurred after you were there and armed, right?

Mr. TEMPLE. Pardon?

Chairman RANGEL. When did this occur?

Mr. TEMPLE. The day of the seizure.

Chairman RANGEL. So you didn't know that you were going to be run over with a snowplow?

Mr. TEMPLE. I didn't know somebody would come up the driveway with a snowplow.

Chairman RANGEL. We want our people to be well-protected, armed to the teeth, and we are concerned with your safety. What we are trying to find out is why did you think that you needed all of these weapons and semiautomatics and shotguns.

To tell us that a plow almost hit you doesn't help our thinking. We want to know why did you come so armed? What were you fearful of? You were fearful of your lives. You see, we are not that concerned with the Snyder case. We have a lot of complaints, and we don't have a lot of Snyders coming before the committee.

If what you are telling us is that some remark that Mr. Snyder made to an agent was the reason why this force went there, then when we hear other complaints from people who don't come forward, your response is going to carry a lot more weight than it deserves.

Mr. CRANE. Could you explain to me when you have these writs of entry, the Federal marshal—is he one who is empowered to deliver the writ of entry. Is that correct?

Mr. TEMPLE. Actually, the revenue officer can deliver the writ of entry, but if he walks to the front door of Mr. Snyder's residence and Mr. Snyder says you can't come in, the revenue officer can't force the door. Only the U.S. marshals can force the door.

We find ourselves again in the position where we didn't request that the marshals take rifles and shotguns. That was their decision, based on information that they had relative to the posse in other areas.

Mr. CRANE. When you arrived on the property, where was Mr. Snyder?

Mr. TEMPLE. In his cabinet shop with another employee.

Mr. CRANE. What ensued? Did you go first to the cabinet shop rather than the home?

Mr. TEMPLE. There was actually one group of individuals that went into the shop and another group that went to the home at the same time.

Mr. CRANE. Which party were you with?

Mr. TEMPLE. The shop group.

Mr. CRANE. When you want to shop, did Mr. Snyder in any way offer any resistance to you stepping inside of the premises?

Mr. TEMPLE. No, because he was working on a machine. The marshals went through the door first and informed Mr. Snyder in some way that we were there to see his assets.

At that point, revenue officer John Sparks informed Mr. Snyder that he had an outstanding tax liability of somewhere in the neighborhood of $70,000—I don't recall the exact figure—and unless Mr. Snyder was willing to pay the outstanding tax liability, we would have to effect the seizure and collect a tax liability through the seizure.

I have seen accounts that indicate that guns were pointed at Mr. Snyder At no time during the day did I see guns pointed at anyone. I heard accounts of fear. I understand Mr. Snyder's little girl was sitting at the breakfast table eating her Cheerios and was totally unmoved by the whole situation.

Mr. CRANE. Let me ask you a question. Is this a colleague sitting with you that participated in this? Is there anyone present who went into the home with that writ of entry? Could one of these gentlemen identify himself for the record, Mr. Chairman?

Chairman RANGEL. Both of them?

Mr. EGGER. Mr. John Sparks is here. He is the revenue officer. I do not know whether he participated by going into the home. He is available.

Mr. CRANE. I think he raised a hand, Mr. Egger. I am curious as to what the procedure was with regard to the home entry.

Chairman **Rangel**. While we are waiting, I have been advised some people have recording devices. I would like to let you know it is a violation of the Rules of the House of Representatives and the Ways and Means Committee to record any of the proceedings here.

Mr. Sparks, would you identify yourself for the record.

Mr. **Sparks**. My name is John Sparks.

Mr. **Crane**. Mr. Sparks, you were with the group that went into the house? Is that correct?

Mr. **Sparks**. Yes, sir.

Mr. **Crane**. Was the door closed?

Mr. **Sparks**. When we arrived, one U.S. marshal, myself and two criminal investigators went to the front porch. The marshal knocked on the door, Mrs. Snyder opened the door and the marshal walked through.

When I got into the living room, I showed Mrs. Snyder the levy and showed her the dollar amount that was owed. She indicated that it couldn't be paid. I explained to her that we had an order for entry, that we had a levy, and that we would seize assets in the house to try to pay the tax liability.

Mr. **Crane**. Is that standard procedure? I mean, when you are coming to collect like that and you have a writ of entry, that you don't explain before coming in or do you just normally move it into somebody's house that way?

Mr. **Sparks**. In this situation it would be normal. Usually we would anticipate any problems and ask the person for permission to enter the property in order to make a seizure. Because it was such a long distance away from Baltimore and since there were so many other complicating factors, we got the order for entry first and then went to the Snyder residence.

Mr. **Crane**. No. I mean, when you were right there at the door and Mrs. Snyder answered the knock on the door, presumably. I mean, is it normal that you just kind of barge in and then tell them why you are doing it?

Mr. **Sparks**. That is hard to answer because I have never been in a situation with a U.S. marshal before. I would assume yes.

Mr. **Crane**. That seems kind of dangerous to me, inasmuch as total strangers coming into my house, if I didn't know who they were and I had a gun, my temptation would be to shoot. That is why I am curious.

It seems to me that your procedures—not yours, the U.S. marshal's—if that is standard operating procedure, put their lives in considerably greater jeopardy than they should be?

Mr. **Sparks**. I should say the first thing the marshal did was identify himself as a marshal. My impression was that Mrs. Snyder understood who we were.

Mr. **Crane**. Was she anticipating her arrival?

Mr. **Sparks**. I doubt she anticipated it. It is hard to say. Since the Snyders were in contact with the Collection Division for years, they may have anticipated a seizure at any time. They may not have. I don't really know.

Mr. **Crane**. I don't have any further questions.

Chairman **Rangel**. Commissioner, I may have missed a lot of Mr. Temple's testimony, but you were listening the same way I was. Was there any reason, in your opinion, for them to believe that they would fear bodily harm for seizing property from the Snyders?

Mr. EGGER. I inquired into this at the time it occurred, Mr. Chairman. I was given a pretty full rundown on the years of exposure to that particular area, as well as to these particular taxpayers. While it is always easy afterward to conclude that they might have done something different, the judgment seemed sound to me.

Chairman RANGEL. I don't want to second-guess law enforcement officers after the fact. I just asked if perhaps you could share those facts with me so that I could agree with your conclusion.

Mr. EGGER. It was based on——

Chairman RANGEL. What did these people do? I mean, traditionally were they violent people? Had they threatened other people? Why were so many marshals there? There has to be good reason for it. I just want to find some reason to be assured that this story in Parade Magazine was an exaggeration.

Mr. HARRISON. I am Warren Harrison, Chief of Operations for the Criminal Investigation Division in Washington.

At the time I was Assistant Chief of the Criminal Investigation Division for Maryland and the District of Columbia. I was asked to be the personal representative to the District Director in Baltimore, Mr. Ted Kern, who sat in on all of these meetings which led up to this seizure.

The decisionmaking was entirely within his area. We worked together very closely on this matter. He asked me to attend and go out there to see that everything came off as ordered but that no one was hurt.

I personally hand-selected the people who went out there. The background was that for a period of 10 years we had information of difficulties in collecting accounts, in assessing tax, and in any method or means or cooperation by Mr. Snyder over the period.

Chairman RANGEL. By that difficulty you mean he wouldn't pay?

Mr. HARRISON. When you see in the file there are records that an individual closely associated with Mr. Snyder in one occasion told a special agent that someone is going to get shot out here, other statements were made to other people when inspectors were out there investigating those charges that someone might find an inspector in a morgue, I don't need a whole lot more, sir, to decide that someone is threatening us.

Chairman RANGEL. You have to understand, sir, this information that you are testifying has not been testified to earlier. You are saying that these types of threats to the agents, bodily harm, is a part of the IRS record?

Mr. HARRISON. It is a part of the record. It is from employees who have left the Service that we were able to contact prior to going up there——

Chairman RANGEL. You built a record afterwards. Is there anything in the record to indicate that these agents and the marshals would be threatened and that is the reason they got these weapons?

I mean, you are not telling me that after they got the weapons and after the allegations were made, that you went back to the agents and then they told you that they were threatened?

Mr. HARRISON. I am not telling you that. I am saying we had that on the front end.

Chairman RANGEL. Let's do this. The committee would like for the Service to put together as much of their official records as they are able to produce, to show cause why the agents felt the necessity to have the type of strike force that it did.

I think Mr. Crane raises a very interesting question; that is, the need for sidearms, the need for automatic weapons and whether or not the whole federal system is so integrated that we can be assured that our agents are protected as they perform their official duties and that at the same time there is no intimidation and fear instilled in American citizens, rightly or wrongly, as related to the legal liability in terms of this raw display of firepower.

I say this, as was pointed out by a previous witness. I have been involved in war, and I have been involved as a prosecutor, and there is nothing I value more than the safety of Federal officers. But standing alone, this is a very, very raw display of firepower.

I would like to be able to share the record, and I promise you, Commissioner, that we, on this committee, will do all we can to make sure it gets the same type of display in Parade. If it falls short of what the full committee would think is normal course of doing business, perhaps recommendations will be made to the full committee as to whether or not there should be more restrictions on the use of display of firearms in the collection of taxes.

Mr. CRANE. Just a couple of other people came to mind, since we have people who were participants. I direct this to Mr. Temple or Mr. Sparks.

Were you aware that the tax liability for Mr. Snyder for the tax year in question was only in the neighborhood of $900 at the time you went to collect the amount that you were trying to collect, which was of course substantially in excess of that?

Mr. SPARKS. The tax liability in February of 1980 was in the neighborhood of $73,000. I think the first time I ever heard the contention that it was only $800 or $900 was during the criminal trial of Mr. Snyder. I have never seen that figure. I don't know how accurate that figure is. That figure, as far as I am concerned, is not accurate. He owes a lot more money than that.

Mr. CRANE. In other words, when you went to the property you were persuaded that his tax liability was $73,000?

Mr. SPARKS. Yes, sir.

Mr. CRANE. Was that your understanding, too, Mr. Temple?

Mr. TEMPLE. That may need some explanation as well. There was an investigation of Mr. Snyder's tax liability for 1971 and 1972 by the Criminal Investigation Division. At that time the special agent looked at the case and, after putting in a number of hours of investigative time, had taken another look at the case, and in particular the 1971 year, and his decision was that he felt that he could prove by deposits in Mr. Snyder's bank account that Mr. Snyder had approximately $67,000 of income.

There were checks drawn on the account of approximately $57,000. I believe it was in January of 1975 the bank had provided copies of the checks drawn on Mr. Snyder's account that they could retrieve from their microfilm. Some of the microfilm could not be read or was not available because of the overlapping of checks.

The second agent said we can prove $67,000 in income. There is a possibility that all of these $57,000 in checks could be business expenses, but I don't know. I could spend another 1,000 hours working this investigation and find that these checks do actually constitute legitimate business expenses. That is where the $890 figure comes from, $67,000 less the $57,000 leaves us with approximately $10,000 gross income.

The revenue agent assigned to the case at that time is no longer with the Service. At one time I worked in the Examination Division myself. If a tax return for 1971 had been filed, the statute of limitations would expire April 15, 1975.

Sometime during March the revenue agent attempted to contact Mr. Snyder and have Mr. Snyder sign a consent extending the statute of limitations. True, if no return is filed, the civil statute would not have expired on April 15 of 1975.

The Examination Division attempted to take a conservative view in the event Mr. Snyder filed a return somewhere else that we were not aware of and have not been able to locate.

When Mr. Snyder would not consent to extend the statute, we did not have time to contact all of the payees on the checks to determine which expenses were business or personal expenses. Mr. Snyder wouldn't provide him with the back-up records to the checks to show which were and were not business expenses.

He had to base his assessment on gross receipts. Similarly, it is the revenue agent's responsibility to prove the income and the taxpayer's responsibility to prove the expenses. OK, I realize that the guy has to have expenses to operate, but the revenue agent was forced into a position that he had to protect the statute, and that is what he was doing with that assessment.

I am not really sure, you know. I think any of us could sit back now and look at that and realize that $73,000 may have been too high. It probably was, but the problem was whether the tax liability was $1,000, $5,000, $10,000, $15,000, or $20,000. The easy way to resolve that is for Mr. Snyder to file a tax return or at least to cooperate with the revenue agent so that the true amount of the tax can be assessed and collected. Mr. Snyder made no attempt to do that that I could see from the documents available.

Mr. CRANE. So what in effect you are saying is, given the statutes, you were carrying them out to the letter, but your assumption was at the time that the tax liability was probably not as high as what you were anticipating trying to gather up the property?

Mr. TEMPLE. Yes, probably much higher than the $890 figure. The $890 figure was the absolute minimum. In fact, what it was based on was the increase in the amount of the bank accounts. For example, maybe the amount in the bank account, at the beginning of the year, was $4,000 and at the end of the year it was $13,000. Mr. Snyder, being a cash basis taxpayer, could have incurred expenses for the difference in the increase in the bank accounts, so what the special agent was saying was that this was the minimum.

I don't know, maybe Mr. Snyder had $20,000 or $30,000 of personal expenses. I don't know, but that is what we may find if we conduct an extensive investigation.

Mr. CRANE. Mr. Sparks, do you know when Mr. Snyder received his last communication from the IRS regarding his liability prior to the arrival of all those forces at his door?

Mr. SPARKS. The last written communication would have been probably in 1979, when the 1972 assessment was made, but there was personal communication throughout from 1978 to 1980 at least.

Mr. CRANE. You mean by telephone?

Mr. SPARKS. By phone plus there were a few personal visits to his residence early in the collection attempts.

Mr. CRANE. Do you know when that those personal visits took place, how much in advance of when you all arrived to sequester his property?

Mr. SPARKS. I am sure it was at least months, probably a year or so. It was a long period of time.

Mr. CRANE. I would like to ask a question about procedures.

Commissioner, you could probably answer this. Is there—and maybe this is the procedure—notification to an individual that if your liability is not paid within a stipulated period of time, that then your only recourse is to physically seize property or assets? Is there a notification that routinely goes out, a stipulated time, before actual action is taken?

Mr. EGGER. Let me recite that for you, Mr. Crane. In the typical case, where an account arises either because the taxpayer files a return showing a balance due but doesn't pay it, or where there has been a revenue agent exam and adjustment, during which time the taxpayers had the usual 30-day letter with opportunity for appeal and so on, but where it is finally resolved that the taxpayer owes the tax, that is to say the appeal rights have either expired or they have been used up, then we send out four notices to the taxpayer, typically over a period of about 3 months.

This takes into account a period of 4 to 5 weeks between each notice, so that the taxpayer will have had a reasonable opportunity to respond.

Each of those notices explains to the taxpayer his rights. After the second notice, we send along pamphlets which explain to the taxpayer what the rights are, and with the fourth notice, the final notice, the taxpayer is informed in writing that his property can be taken, his bank accounts can be levied, and so on, and so forth. All of those rights are explained fully in writing.

I might say that at any time during the whole process, the taxpayer has only to contact the district director's office and the process can be stopped in its tracks if there is a showing of a willingness to work with the Service in an attempt to meet the obligation.

When nothing is heard from the taxpayers after the fourth notice, a taxpayer delinquency account is sent to the district director's office. Ultimately, it is assigned to a revenue officer such as Mr. Sparks. The revenue officer, usually by telephone or otherwise, will make some attempts to collect the tax from known levy sources such as a bank account, something of that kind.

In every case where there is to be anything like a seizure of personal property, the taxpayer is contacted personally, if we can locate him. We do not go onto the taxpayer's private property, that is to say, his home, without a court order, writs of entry. None of this procedure is just an overnight kind of thing, where the assessment is made and the very next day we are seizing assets. That simply does not happen. We believe that the lengths to which we go in the collection process lean over backward to respect the rights of the taxpayers. However, the officials of the Internal Revenue Service, are obligated under the law to collect the tax.

We have more than $20 billion in outstanding accounts receivable at the present time, and we are wrestling with that. With some 10,000 people that are involved in the collection process, it makes it almost impossible to not have difficulties arise, particularly where, as in this case, we are ultimately forced to do the thing that we do not wish to do, which is to seize the personal property of the taxpayers.

Mr. CRANE. Commissioner, could I ask a question in that regard. Is there anything from the viewpoint of the Internal Revenue Service, is there any reason why you couldn't notify a taxpayer in advance that come noon on a stipulated date we must at that point seize your bank account or get this writ of assistance, and we will be there at noon on this date, if no action is taken by you to cooperate prior to that time?

Mr. EGGER. Right. Before I respond here, I would like to ask Mr. Sparks, who is a revenue officer, and who is directly involved in this kind of work regularly, to explain what we do.

Mr. SPARKS. The management of Internal Revenue has always encouraged revenue officers to tell the taxpayer in every case exactly what the plan of action is and where things are going to happen. That is the way we try to do it. In the instance with Mr. Snyder, there had been attempts by him to hide his assets. He had deeded real estate away from himself at approximately the time of the assessment in 1975. He had titled a pickup truck to his mother, which a court subsequently decided actually belonged to him. There were a lot of instances that led us to believe that if we gave him enough notice there might be nothing there to seize when we got there.

Mr. CRANE. Except, if you will permit me to interrupt for a second, as the Commissioner explained, with these repeated, I mean the four announcements, anyone who was determined not to pay, I am sure long before he got his fourth announcement would have taken that kind of action, and in this instance you are talking about an action 4 or 5 years before the actual confiscation that was the case involving the use of all the weapons, so I would assume that anyone who was determined to try and avoid payment of taxes is going to try and take that action which ultimately you must, presumably in court, persuade a judge or a jury he took simply as a means of avoiding having property in his name for the IRS to lay hands on to cover his outstanding tax obligation.

It just seems to me that in making that kind of an appearance at someone's house, that since you have that recourse, as you did in the case of recovering the truck as a liability that was his even though several years before he put it in his mother's name, giving a person a notification that this is the last one, and now come noon the first of next month we have to be at your doorstep and we have to be there with Federal marshals and we have to collect property and we have to lay onto your bank account and so forth. If he has made a frantic 11th hour effort to hide it and transfer property, you can still lay your hands on that property.

Mr. EGGER. As I said earlier, in each of these cases you have different circumstances. While we attempt to do that kind of thing, we attempt to work with taxpayers in circumstances where we agree that this is the only solution. When this is the only conclusion we can reach, we work that out very amicably in most cases.

But it is only in the situations where we are concerned with the possibility of concealment and that sort of thing that we have to take unusual steps and not be quite as free with disclosing our plans and so on as we might otherwise do.

Chairman RANGEL. Will the gentleman yield?

Mr. CRANE. Yes.

Chairman RANGEL. Let me assure the gentleman that the committee is going to explore this. Obviously this is one of the cases where the Service believes it is warranted to use this type of an armed group to get the assets of Mr. Snyder. The problem that we normally have is that we don't have an opportunity in the Congress to hear both sides of the case. Because of these hearings, Mr. Snyder's counsel has authorized us to be involved. I am certain that the Service believes that with the information it had it did the right and proper thing.

Since this is not a case where the Service is saying that they have isolated breaches of authority, abuse of authority is isolated, I think it might be good for the committee to be in the position to review how these decisions are made.

As long as I can be assured of the cooperation of the Service and the availability of witnesses, we will have the exchange, and I assume there is nothing more that you would need from counsel at this time for us to pursue this further, so that the full committee would have a better understanding.

Mr. EGGER. I believe, Mr. Chairman, that we have what we need, and we will certainly provide the committee with not only a thorough record in this instance, but we would like to include in there a general statement showing how the decisionmaking takes place in these kind of circumstances, so that you can——

Chairman RANGEL. In this particular circumstance or in others?

Mr. EGGER. In both this particular one and in general.

Chairman RANGEL. All right. I can understand how the Service would be concerned in seizing property, why they should be concerned with their safety in other cases. It would help me and other members of the committee if we could have the facts that led to the conclusion that this type of force was necessary to reach legal objectives. With that in mind—and certainly you can inquire further, Mr. Crane—I did want to wrap up this panel because we have a couple more to hear.

Mr. CRANE. That is fine, Mr. Chairman. I would just like to make one brief statement. I had the opportunity to visit with the Commissioner earlier, and I want to set the record straight that none of this in any way is designed to reflect adversely on Commissioner Egger, because these are cases long standing and preceded Commissioner Egger's appointment to the position he holds today, and that my comments, I think any of us have made, are not designed in the absence of having sat in a courtroom and listened to the testimony pro and con, to reflect adversely on any individual in the performance of his duty, trying to arrive at some answers, though, to questions with a view to trying perhaps to establish more effective guidelines, maybe within the Internal Revenue Service itself, more effective guidelines from those of us who have a congressional responsibility over the Service.

That is the hope so as to guarantee that we do not have incidents where maybe a case of bad judgment by someone in the field, reacting in the absence of a clear-cut understanding of what his authority may be occurs, and simultaneously individual rights of any citizen are in any way trampled upon, but as I said, I just wanted to set the record straight as far as our realization that we know we have your cooperation in trying to achieve those goals.

Thank you.

Mr. **Egger**. We certainly welcome the comments of the subcommittee, and particularly after we can thoroughly complete the record so that you have an opportunity to review it indepth.

Chairman **Rangel**. Commissioner, we interrupted your testimony.

Mr. **Egger**. Yes, I would like to proceed now and I will be as brief——

Mr. **Tranakos**. May we have access to the documents furnished to the Internal Revenue Service as well so we may have those documents?

Chairman **Rangel**. I will have to check with counsel. I assure you of this, it will be impossible for our staff to evaluate the responses coming from the Service without contacting you, and I have asked counsel to be certain he is in communication with you.

Mr. **Tranakos**. That will be fine.

Chairman **Rangel**. Thank you very much, and thank you for the release so that it affords us an opportunity to get deeper into the case.

Proceed, Commissioner.

Mr. **Egger**. Let me go forward here and I will be as brief as I can. The next witness is Mr. Graham, and there isn't a great deal for us to refute insofar as Internal Revenue is concerned regarding Mr. Graham's testimony, because by and large he had more difficulty with the tax laws and the system than with the Service.

However, he did make reference to one instance in which he indicated that the Internal Revenue Service was responsible for him being incarcerated for 31 hours. This grew out of a summons enforcement action which was one of 18 summonses through which we attempted to get information either from Mr. Graham or with respect to him. In all of these, we were forced to go to court for summons enforcement actions. Every single one of them was upheld, although most of them were appealed to the third circuit.

When these summons actions were enforced or approved by the court, in at least two instances, Mr. Graham did not respond to the court's orders, and was held in contempt. The court imposed fines in a couple of instances, and in one case the court ordered him incarcerated until he responded to the court's order, so it was those kind of circumstances that it arose from, and I wanted the committee record to show that.

Mr. **Graham**. Could I respond to that please? That is a lie?

Chairman RANGEL. Please. This is not a court of——

Mr. GRAHAM. Could I respond to it?

Chairman RANGEL. You will have an opportunity to respond at this forum.

Mr. GRAHAM. He has been lying.

Chairman RANGEL. The testimony indicates it was a contempt of court rather than the IRS. If you want, Mr. Graham, you can respond to the public record, and I assure you and the members of the committee will assure you that we will get further responses. But you can appreciate that we don't want to have this as a debate. I will direct counsel to take from the record that part of the testimony as it relates to Mr. Graham and afford him the opportunity to respond to the committee.

Mr. GRAHAM. Thank you very much.

Chairman RANGEL. You may continue.

Mr. EGGER. With respect to the testimony by the witness Irene Hanson, the instance that she characterized as an assault, although the committee has the record, I fail to see how that came about. Certainly there wasn't any physical assault. The IRS did, upon receipt of her allegations, carry out an investigation, and once again, Mr. Chairman, typically we wouldn't disclose this kind of internal investigation, but in the case of this subcommittee, it has a perfect right of inquiry here.

The investigation was carried out and Mrs. Hanson was informed by the district director, in writing, that he had found no wrongdoing on the part of the individuals involved, and she wrote back and insisted that this be carried out further. So at the request of the regional commissioner the investigation was extended, and it once again concluded with no evidence of any wrongdoing.

As I understand it from the record, Mrs. Hanson came there with a taxpayer to participate in a hearing or in a meeting. It is our policy not to allow people, who are not properly authorized, to represent a taxpayer, that is, if they are not CPA's or lawyers or persons admitted to practice before the Treasury Department, their presence is not proper.

With respect to Mr. Metzger, by and large his complaints——

Mrs. HANSON. I would like to respond to that or have an opportunity to. He is going on to someone else.

Chairman RANGEL. Staff is directed to have the response of the Commissioner sent to Mrs. Hanson, and you will be given an opportunity to respond.

Mrs. HANSON. What kind of an opportunity will I have?

Chairman RANGEL. This is not a court of law. This is a legislative hearing that we are holding. We have asked the Commissioner to respond to the taxpayer allegation——

Mrs. HANSON. The IRS Commissioner?

Chairman RANGEL [continuing]. Of violation of the law, and we do this so that you and other citizens will have the benefit of listening to what their explanation is. This is not to foreclose you from further inquiry, and I am assuring you that this committee will hear from you further. But we can't have a debate here.

Mrs. HANSON. I don't want a debate.

Chairman RANGEL. As a matter of fact, right now you are out of order with the rules that we do have for congressional hearings.

Mr. **Crane**. Mr. Chairman, could I make a unanimous consent request, and I think it is for the benefit of this witness and any of the others who testified that this offer that you have made applies to one and all of them, that they will have their opportunity to respond, and that you will follow upon that.

Chairman **Rangel**. Without objection.

Mrs. **Hanson**. May I ask one question?

Chairman **Rangel**. I hope you understand the restrictions of legislative hearings, and one thing that is restricted is that we don't recognize people except when they are witnesses, so please direct your inquiry to the committee, and as Mr. Crane has moved, without objection it will become a part of the record, so you are not losing anything.

Mrs. **Hanson**. Could I ask one question?

Chairman **Rangel**. Please don't.

Mrs. **Hanson**. Just one?

Chairman **Rangel**. Yes, ma'am.

Mrs. **Hanson**. How do I get redress of grievances? How? Please instruct me.

Chairman **Rangel**. I think you have many avenues to get redress. Certainly through your elected representatives, the House of Representatives of the Congress is one. You are pursuing that, and I am trying all within my limited power to see that you get redress.

Of course, you always have the court system, but since you are here with the legislative system and the executive branch, we are trying through this hearing to get you individual and general relief to your complaint.

The record will remain open so that if you are not satisfied with the answers that we are receiving today, you will have an opportunity to rebut them.

Mr. **Crane**. Mr. Chairman, may I make one other unanimous consent request, since I have another appointment and I will be absent from 3:30 to 4 that questions that could otherwise occupy the panel probably the rest of the afternoon might be submitted in writing to either the Commissioner or representatives of the IRS, and any of the witnesses that have testified.

Chairman **Rangel**. Those questions that would come from witnesses that have testified, I think that goes without objection, and the Commissioner had requested that as well.

Mr. **Crane**. Thank you.

Mr. **Egger**. May I comment, Mr. Chairman, that Mrs. Hanson also referred to a time when she was detained or held overnight or something. I do not know what that is about. My understanding is that it is entirely a matter that occurred within the district court or other Federal court and was not an IRS matter as such. However, we will look into it further.

Chairman **Rangel**. And we will receive that information and forward it to Mrs. Hanson, as we have assured her.

Mr. **Egger**. With regard to Mr. Metzger's testimony, his concerned debating issues that are matters pertaining to the statute itself rather than tax administration. There really is very little about his testimony on which I can comment.

Finally, with regard to Mr. Storrer's testimony, we are, of course, well aware of Mr. Storrer as a professional practitioner on the west coast. He is a highly reputable individual practitioner, and we would hope that while these are matters about which he is concerned, he would continue to work with our field organization in searching for ways to better serve his clients as well as taxpayers as a whole.

In conclusion, Mr. Chairman, I would simply like to say that once again I am very pleased that we have had this opportunity, this forum, as a framework in which to review our procedures, and while we tend to believe that these procedures are adequate to safeguard the rights of taxpayers, we are certainly open to suggestions, if the committee believes, upon review of the record, that there are more things we ought to be doing.

I would like to point out that in a number of programs we tend to be caught in the middle. For example, we have been accused today of being too tough in our collection practices, but that sentiment is not universal. The General Accounting Office, in a November 5, 1981, report, entitled "What the IRS Can Do To Collect More Delinquent Taxes," found that the Service was not always taking enough action to collect delinquent taxes, and was in fact allowing taxpayers to delay or even avoid paying taxes because, among other things, of our concern for taxpayers' rights.

This same theory was advanced, humorously I might add, in a recent article in a Portland, Oreg., newspaper. I have included a copy of that article with my formal statement for your information. While I doubt any tax collection system that could be devised would ever be totally free from criticism, I believe our system does strike a good balance. We are forced to weigh the need to try to collect some $20 billion in accounts receivable against the need to respect the rights of the individuals who are delinquent. It is not an easy job. We do the best we can.

Now, Mr. Browning, the Ombudsman, has a brief statement here, after which, if you have any further questions of him or us, we will certainly be——

Chairman RANGEL. I have conferred with my colleague Mr. Duncan as relates to the Ombudsman statement. I think both of us agree that you are doing a fine job there, and we would like to expand and give as much support to that area as possible. Because we have fallen behind, because of the line of questioning we had in interrupting this panel's testimony, without objection, we can place the Ombudsman's statement into the record where the committee will have a chance to review it. It is this type of thing that makes our job a lot easier to solve the problems before they come to us. What we would like to do is to sharpen the line of communication between the Service and the committee.

[The statement of Mr. Browning follows:]

STATEMENT OF HAROLD M. BROWNING, IRS TAXPAYER OMBUDSMAN

Mr. Chairman and Members of the Subcommittee; My name is Harold M. Browning. I am the Internal Revenue Service's Taxpayer Ombudsman, the Taxpayer's representative in the Commissioner's office and the Service generally. It is also the responsibility of my office to advocate and protect taxpayers' rights in their dealings with the Service, as well as to functionally supervise the Service's Problem Resolution Program (PRP).

I am happy to be here today and I am testifying separately from the Commissioner in order to provide the Subcommittee my personal views on the Service's taxpayer safeguards system.

I will discuss the role and function of the Taxpayer Ombudsman and PRP, as well as describe some of the major ways my office contributes to and oversees IRS safeguards. However, first I want to provide some background on why my office was established.

THE NEED FOR A TAXPAYER OMBUDSMAN

The establishment of a Taxpayer Ombudsman and the Problem Resolution Program represent the Service's most visible efforts to be responsive to the taxpayers of America. In a tax system as complex and extensive as ours, there are bound to be problems and complaints from individual taxpayers. But to ignore or brush aside such problems because of the size and complexity of our tax system is to invite an adverse effect on voluntary compliance. I share the Commissioner's sentiments about the role of voluntary compliance in our tax system and believe my office contributes measurably to voluntary compliance by helping taxpayers deal with the system.

The need for an Ombudsman should not really surprise anyone considering the volume of work and taxpayer contacts handled by the Service. For example, in Fiscal Year 1981, the IRS:

Received over 166 million tax returns of all types; issued over 71 million individual tax refunds; received about 36 million telephone calls from taxpayers in our taxpayer service offices; was visited by about 8.7 million taxpayers for taxpayer assistance; examined approximately 2 million tax returns; and closed approximately 2.2 million delinquent accounts.

If the Service were correct in its dealings with taxpayers 99.9 percent of the time, we would still be incorrect thousands of times, given the volume of contacts. While the Service has in place the numerous safeguards mentioned earlier by the Commissioner, it is the responsibility of my office to cut across organizational and operational boundaries to see that these safeguards are functioning properly and to provide the taxpayer somewhere to turn when they do not.

HISTORY OF PRP AND THE TAXPAYER OMBUDSMAN

The Service felt the need for such a function in 1976, when it established a four-district test of the problem resolution concept. The test results clearly indicated that such a concept was not only operationally valid, but necessary.

In 1977, the Problem Resolution Program was established nationwide to provide special attention to taxpayers' problems and complaints. Today, each of IRS' 60 district offices and 10 service centers has a Problem Resolution Officer who is part of the office of the district or service center director.

In 1979, the position of Taxpayer Ombudsman was established in the National Office. It was, and still is, part of the office of the Commissioner, and is filled by a Senior Executive Service rank individual. This status provides the organizational and operational authority necessary to fulfill the Ombudsman's mission. I was appointed as the first Taxpayer Ombudsman in January 1980.

ROLE AND FUNCTIONS OF THE TAXPAYER OMBUDSMAN

Specifically, the Ombudsman performs the following major functions:

Administers the nationwide Problem Resolution Program; represents taxpayer interests and concerns within the IRS decision-making process; reviews IRS policies and procedures for possible adverse effects on taxpayers; proposes ideas on tax administration to benefit taxpayers; represents taxpayers' views in the design of tax forms and instructions; and suggests changes to existing or proposed legislation.

I would like to emphasize that none of these functions are meant as substitutes for other, existing Service programs, but rather as ways to insure that these existing programs work as intended. If they do not, my office can effect changes.

HANDLING OF TAXPAYER COMPLAINTS

Our Problem Resolution Program was established to provide special attention for taxpayers' problems that are not properly or promptly resolved through normal IRS channels and for problems that taxpayers believe have not received appropriate attention. Many complaints concern missing or late refunds, while others concern erroneous billings, unclear notices and letters, and examination and collection problems. The causes are many—failure to communicate, inefficiency, lack of courtesy, unreasonable delays, and "the computer."

All the PRP cases we receive are given personalized service. Each problem, when received by PRP, is documented on a special form, given a control number, and monitored until the issue is resolved. Every effort is made to resolve cases as expeditiously as possible and over 80 percent are resolved within 30 days, many much faster. If the case cannot be resolved in 5 days, the taxpayer is contacted, advised of the status of the case, and provided the name and telephone number of the employee responsible for resolution of the problem.

Solving difficult problems or complaints quickly is one of the main reasons for having PRP, but just as important is giving taxpayers access to a single contact point—one person who will listen to their problem and follow up on it throughout the IRS organization. Too often in the past taxpayers complained that we not only didn't seem to solve their problems, but that they were referred from one employee or office to another—rarely talking to the same person twice—and often without any indication that the problem was being worked on or that anyone cared. The bureaucracy too often is termed "faceless"—PRP and the Taxpayer Ombudsman is our attempt to put a human face on part of it.

Our workload statistics for PRP will help you understand even more the value of PRP and the Ombudsman. Since 1977 we have received a total of 840,000 requests for help— and we're not talking about cases, but 840,000 people who we've helped. The following is a response to a PRP follow-up questionnaire from one of those individuals:

"I was very impressed with your service. . . . My problem was addressed, questions were asked to clarify what might be some reasons why I was being harrassed by the IRS, and clear and concise instructions were provided to me regarding what materials to send to your office. . . . Then a final call come to provide the ultimate closure. No one was able to explain why the problem came about, but all offered speculations. In the final analysis, it matters little to me. I am no longer the recipient of nasty, threatening form letters, thanks to your professional staff. At last big government is rediscovering human relations. I'd like to see them replace a few of their errorless, super-efficient computers with a lot of your real folks. Thanks for asking."

RESOLUTION OF SYSTEMIC PROBLEMS

A vital part of PRP and a major concern of mine is the identification of the underlying causes of taxpayer problems. Through an analysis of individual problems and statistical trends, systemic and procedural weaknesses or deficiencies are identified. Solutions are then developed and implemented so that future taxpayer problems can be eliminated, service to the public can be increased, and IRS resources can be conserved.

Since the inception of the Problem Resolution Program, many systemic and procedural problems have been identified and resolved. These problems are both local and National in scope and deal with many different facets of tax administration:

Communications with taxpayers, including unclear notices, forms or instructions or conflicting instructions; erroneous assessments and billings; timelinesss of actions; lack of uniform treatment; and processing of tax returns.

TAX FORMS AND PUBLICATIONS

As mentioned earlier, the Taxpayer Ombudsman is responsible for representing taxpayers' views in the design of tax forms and instructions. As a member of the Tax Forms Coordinating Committee, I receive all new and proposed revisions to forms and instructions for review and either I or my staff attend all meetings to present our views. Many changes have been made as a result of these reviews, as well as through our systemic problem identification procedures.

My staff and representatives of field Problem Resolution Offices have reviewed our major publications from the taxpayers' point of view and have made many suggested revisions which have been or are being made.

In addition, a member of my staff has worked with our Chief Counsel's office to develop more informative and friendly letters to be used for Tax Court cases. The end result is letters which are less legalistic and intimidating and easier for the average taxpayer to understand.

CONCLUSION

In reflecting upon my experience as IRS' first Taxpayer Ombudsman, I can clearly state that there is a real need within the IRS for an Ombudsman and for the Problem Resolution Program. I believe I can also say that PRP has received overwhelming acceptance—by taxpayers, practitioner groups, accountants and attorneys—all around the country. I am sure that many of you—and especially your staffs—have used PRP to resolve constituent problems and I hope you have found PRP to be very responsive.

I personally am pleased with the results of our efforts in the area of systemic problem identification and believe that actions taken as a result have made the Service more responsive to the public and have prevented future problems from occurring. Additionally, our efforts as the taxpayer's representative on the Tax Forms Coordinating Committee are helping to make IRS forms and instructions easier for the average taxpayer to read and understand.

However, we continue to review tax administration from the taxpayer's point of view and are currently studying the following matters:

At the present time, only PRP contacts taxpayers to determine the level of satisfaction with IRS' treatment. This is done by a follow-up questionnaire which is periodically sent to a statistically valid sample of taxpayers who have been assisted by PRP. Our PRP questionnaires, to which we receive an impressive response rate of over 40 percent, have, by the way, consistently resulted in a satisfaction rate of over 90 percent. Within budgetary constraints we are considering a proposal to develop some form of regular followup with taxpayers on a Servicewide basis.

Based on our review of identified systemic problems, I am looking into the feasibility of setting up controls for taxpayer correspondence received by our service centers. The service centers receive literally millions of pieces of correspondence each year from taxpayers and the vast majority are properly handled; however, there are still too many which are not, which is the reason for my concern. While I realize that such a proposal would be very costly and may not be possible given IRS' current computer equipment and resources, I plan to initiate a study of this issue.

Finally, one of the things I have been concerned about for some time is the estimated tax penalty, which can be especially burdensome for older Americans, who too often find themselves subject to the penalty the first year after they retire. The recent change made by the Economic Recovery Tax Act of 1981, which raised the tax liability threshold for estimated tax from $100 to $500 after a 4-year phase-in period, will be a significant help. However, I have recommended that consideration be given to another proposal to provide relief from the penalty when failure to comply was for reasonable cause.

Chairman Rangel. With that in mind, is it possible to determine what mechanisms you have within the Service that deals with the allegations of misconduct with employees? What type of mechanism do you have to deal with discipline and misbehavior, and what protection, if any—these questions don't have to be answered in any particular order—what protection do you have for employees who report that in the course of performing their duties they did see an abuse? And perhaps when we make the allegation you could fill us in as Members of Congress as to what do you do to check it out so that we could respond to the taxpayer.

Mr. Egger. Fine. I would like to do that. I have Mr. Rebein here, who is the Assistant Commissioner for Inspection, and integrity of the employees of the Internal Revenue Service is one of his major areas of responsibility. Without objection, I would like Mr. Rebein to respond to those questions as briefly and as succinctly as he can.

Mr. Rebein. Very good, Mr. Chairman.

First of all, I have two brief statements I would like to submit for the record, which give the responsibilities of the Internal Audit Division and the Internal Security Division, if I may.

Chairman Rangel. Without objection.

[The statements follow:]

INTERNAL SECURITY ACTIVITIES RELATING TO TAXPAYER RIGHTS

The Internal Security Division was established to provide an independent investigative function within the Internal Revenue Service to assure the maintenance of the highest standards of honesty, integrity, loyalty, security and conduct among Service employees and to investigate those non-employees who attempt to corrupt the Service.

Internal Security programs are both reactive and proactive. The reactive aspects require that allegations of serious or criminal misconduct will be investigated. The proactive aspects of the program align themselves with the current emphasis in government which is on the development, implementation and review of internal controls to prevent theft, fraud, waste and misuse of resources.

The success of these programs has a vital impact on maintaining public confidence in the dependability and integrity of the Service, which fosters maximum voluntary compliance. Recognition of the rights of the taxpayer as well as the protection of the rights of the government are inherent aspects of the Internal Security programs.

The IRS and the Internal Security Division rely, in part, on the taxpayers themselves to advise of instances of improper treatment, abuse, fraud, and other violations. They are informed of their rights through various IRS publications, news releases and other media. The Internal Security Division also advertises its availability to taxpayers through posters in IRS offices and presentations to taxpayer, practitioner and professional groups.

Complaints can originate from many sources inside as well as outside the Service and may be received by IRS employees, managers, or directly by Internal Security. Specific procedures are outlined in the Internal Revenue Manual for handling complaints within the Service. All reports of misconduct must be made promptly and directly to Inspection, unless they are purely administrative in nature, in which case they are reported to IRS management.

Each complaint, whether from a taxpayer or employee, received by Internal Security is promptly evaluated to determine if an investigation is warranted. Decisions regarding disposition of information received are approved by at least two levels of Internal Security management. Internal Security also has the responsibility to report allegations of misconduct by senior officials of IRS to the Inspector General, Department of Treasury, who has oversight responsibilities over all the Inspection Service functions within Treasury.

There are a number of factors considered in evaluating complaints. If the information is related to the mission of Internal Security and there are logical investigative leads to pursue, then an investigation will be initiated. In some instances, the information is administrative in nature and enough information exists for management to act on. In these instances, the information will be referred to management without investigation. If management feels they cannot take appropriate action without Internal Security assistance, sufficient investigation will be conducted by Internal Security to resolve the issues. Information relating to other agencies or other IRS functions, with no Internal Security interest is referred for appropriate action, within the guidelines of the disclosure laws.

Once an investigation is initiated, sufficient investigation will be conducted to resolve the issues. If the investigation shows there is no basis for the allegation, the investigation will be closed. When the investigation discloses specific misconduct and/or a violation of federal law, the report will be forwarded to IRS management for adjudication or if warranted, to the United States Attorney for prosecutive action. Due to privacy considerations and disclosure laws, complainants are normally not aware of the results of the investigation or the final action taken. In criminal prosecution cases, the matter is part of the public record. Internal Security has appropriate follow up procedures to determine what actions are taken by management as a result of our referral.

In fiscal years 1979, 1980, and 1981, a total of 1,687 investigations on employees were referred to management for adjudication. 40 percent of these investigations resulted in either separations (244) suspensions or reprimands (431). During the same period, 46 of the cases referred involved allegations of intimidation and/or harassment of taxpayers. Twenty-eight percent (13) of these cases resulted in adverse actions.

The Internal Security Division has also been undertaking an aggressive program to preclude abuse of taxpayer rights by unscrupulous individuals, non-IRS employees, who would through various schemes, attempt to extort taxpayers, using IRS as the basis for their scheme. For example, individuals have impersonated IRS employees in order to gain access to information on businesses or individuals for their personal use and personal monetary gain. Our investigations have surfaced schemes by practitioners who allege a taxpayer is under examination, when they are not, indicate to the taxpayer that the IRS audit can be taken care of for a specific amount of money, then use the funds for their own purposes. Internal Security has initiated an awareness program specifically targeted at citizen groups and professional organizations. Presentations, news articles, and a recent TV report have warned the elderly of possible schemes.

The continued militancy of members of the tax protest movement is exemplified by the increased use of violence and threats by tax protesters during fiscal 1980 and 1981. In fiscal 1980, two members of the Sheriffs' Posse Comitatus (SPC) were convicted of assaults against Service employees. During fiscal 1981, there were seven prosecutions of tax protester assault cases involving twelve individuals. Seven of these defendants were either known SPC members or their associates. To date, seven of these individuals have been convicted, including two SPC members. One Criminal Investigation Division case involving five individuals, two of whom have been positively identified as SPC members, is currently awaiting trial.

Five of the protesters were convicted for threatening Service employees with bodily harm. In four other cases involving nine individuals, the employees were threatened with firearms. Six of the assailants who used firearms were either SPC members or their associates. With the exception of two cases, all of the prosecutions occurred in the south, southwest and western areas of the country. Six of the defendants reside in the state of Wyoming.

In addition to the use of violence and threats, IRS employees have been subjected to various harassment type tactics. Tactics used include serving common law liens on employees, sending unsolicited mail, vandalizing employee property, obscene letters, harassing telephone calls to family members, filing allegations of personal misconduct, and in one instance requesting emergency equipment at an employee's home.

Internal Security's primary consideration is to protect the rights of taxpayers through investigation of employee misconduct, whether it be through prompt attention to complaints or through the proactive or awareness programs. It is our feeling that the results of the programs impact directly on the taxpayer's right to fair and equitable treatment and increases confidence in the voluntary tax system as well as the perceived integrity of the Service.

INTERNAL AUDIT DIVISION'S ACTIVITIES RELATING TO TAXPAYER RIGHTS

The full benefits of the Service's Internal Audit program are realized only through complete, mutual cooperation by management and Internal Audit, with each carrying out its respective responsibilities.

The Internal Audit Division provides the Commissioner with an independent review and appraisal of all Internal Revenue Service operations to assure that responsibilities at all organizational levels are properly discharged with effectiveness and efficiency and in accordance with laws and regulations. Internal Audit also provides a protective and constructive service to other management officials by reporting to them significant audit findings relative to their operations, together with appropriate recommendations.

The Internal Audit responsibility is discharged through examinations of Internal Revenue Service operations at all organizational levels. Internal audits include the review and appraisal of policies, practices, and procedures, as well as the analysis and verification of accounts, financial transactions and reports. These internal audits also include tests to determine whether taxpayers are treated fairly and equitably. Internal Audit is also charged with the responsibility under the law and Office of Management and Budget and Treasury regulations for attesting to the validity of financial transactions and financial statements.

Management is responsible for assessing the causes of the problems reported by Internal Audit, including the reasons why the problems occurred and went undeteted, and the corrective actions taken, planned or recommended to overcome the prolems.

The Service has established a follow-up system to assure that timely actions are taken in response to Internal Audit Reports. This system provides that the Deputy Commissioner for the offices of Assistant to the Commissioner (Public Affairs, Equal Employment Opportunity, and Taxpayer Ombudsman), and each Assistant Commissioner or Regional Commissioner are responsible in their respective area for:

(a) ensuring that the response to an Internal Audit Report includes the expected completion date for planned corrective action, and the management official responsible for implementing the action;

(b) evaluating and approving memorandums from responsible management officials stating the actions that have been taken to implement the planned corrective actions;

(c) evaluting reasons for not implementing planned actions timely and for establishing new expected completion dates; and

(d) appointing an official to act as the central control point for following up on the implementation of planned corrective actions.

Service policies and controls require fair and equitable treatment of taxpayers. we randomly sample cases to assure that these policies and controls are adhered to. Where we find indications of violations, we bring these to the attention of management for appropriate corrective actions. None of our audits during the past three years have indicated any trends of violations of taxpayer rights.

In the area of protecting taxpayer rights, the Internal Audit Division works closely with the Internal Security Division. Any indications of potential taxpayer rights violations identified during the course of internal audits are referred to the Internal Security Division for consideration of possible investigative actions. These situations are also subsequently reported to management for consideration of appropriate administrative actions.

Mr. **Rebein**. I think that will tell you a little more about what our responsibilities are. In specific response to your question about what happens when we get an allegation of an employee's misconduct. If it is reported as provided for in the manual, it comes to the inspection office and will be immediately evaluated as to what the allegations are and what should be done.

If it is purely administrative in nature, such as drinking on duty, fighting, and things of that nature, wherein all of the facts are there with which management needs to take some action, we will refer the matter to management, who will in turn make an appropriate decision and take the necessary action.

If it requires an investigation, we will start an investigation and conduct appropriate inquiries to resolve the issues. If that investigation results in allegations where there is an indication of a criminal violation, we are required by statute to report it to the Justice Department for a prosecutive opinion. If prosecution is warranted in the eyes of the U.S. attorney, we will advise management of such a decision so that they can make an appropriate determination as to what action should be taken with regard to the employee pending prosecution.

If the prosecutive opinion is that they decline prosecution in favor of handling it administratively, we will send the report of investigation to management officials to make the decision. It doesn't just stop right here.

We in the Internal Security Division have a requirement in our procedures which requires us, in a timely fashion, to go back to management, if we do not hear from them promptly, to determine what action has been taken, so that we can make our records complete. There is followup in that respect.

Mr. **Browning**. I would like to add to his comments too. My name is Harold Browning. I am the Ombudsman for the IRS. In my particular position we come in contact quite often with complaints about our employees, especially in the areas of discourtesy or the fact that they mistreated a taxpayer or took advantage of a taxpayer's rights.

In checking with our field people, we asked them how they handle situations like this. It was universal that as soon as they get any type of complaint regarding discourtesy on the part of an employee or any type of allegation of this nature, they turn it over to the Division Chief of the particular function that the employee works for.

These complaint cases are controlled, then monitored, and once the decision is made on the case, my employees in the field get followup reports as to just what happens as far as these particular allegations are concerned.

Chairman RANGEL. How does it work? How many complaints have you received, and what was the result of those numbers of complaints, and what action was taken where the complaint had validity?

Mr. BROWNING. I am not able to answer your question fully, because sometimes we have more than one problem involved in a particular case, and our statistics are set up in such way that we capture the systemic problems within the Internal Revenue Service.

Chairman RANGEL. I don't want all of that data. Do you consider that you have a serious problem in terms of abuse of taxpayers by employees of the Internal Revenue Service?

Mr. BROWNING No, I do not——

Chairman RANGEL. Do you think you have a serious problem?

Mr. BROWNING. I do not believe that there is a serious problem. When we do run into a problem, it is usually a lack of training or a misunderstanding or the employee had a bad day.

Chairman RANGEL. How much lack of training, bad days or whatever, did you have last year?

Mr. EGGER. Mr. Chairman, could I ask Mr. Rebein? He has some statistics here.

Chairman RANGEL. Really, I am just responding to whoever answers. You feel free just to direct whoever——

Mr. EGGER. The Ombudsman gets one type of complaint, but the kinds that go to investigation and so on——

Chairman RANGEL. I just want some evidence for the record that you know that some taxpayers do have legitimate complaints.

Mr. EGGER. Yes.

Chairman RANGEL. You know that your agency is not that much different from other agencies, and whether it is a bad day or lack of training, if you could state for the record how many bad days you have had and what you have done about it.

Mr. EGGER. We have some statistics for you on that.

Go ahead, Bob.

Mr. REBEIN. I will give you those that I have readily available, and perhaps that will give you a grasp of the perspective. During fiscal years 1979, 1980, and 1981 a total of 1,687 investigations were referred to management for adjudication. Those are cases we had open investigations on.

Forty percent of these investigations resulted in either separations, suspensions, or reprimands. During the same 3 fiscal years, 46 of the cases referred involved allegations of intimidation and/or harassment of taxpayers; 28 percent, or 13 in number, of these cases resulted in adverse actions.

Chairman **Rangel**. I think you have a pretty good record in terms of what happens when you find out about it. What are you doing to avoid it?

Mr. **Browning**. In response to your question, the statistics that I captured last year showed that we had 181 of the harassment/discourtesy-type complaints within the problem resolution program.

Chairman **Rangel**. I think you ought to submit that to the committee, because the sensitivity of being a tax agent far exceeds a lot of Federal responsibility, and where you have one wrongdoer that you catch, God knows how much damage he or she may have done before it reached your attention, but it certainly gives a lot of validity to some of the complaints the taxpayers have, which is not just rudeness and a bad day.

It is our job to try to maintain or restore integrity into the system, if people are just going to avoid it, if you have bad salesmen out there, if people are abusing the law, it is good that we know.

Mr. Duncan?

Mr. **Duncan**. Thank you. No questions.

Chairman **Rangel**. Are there any questions?

The record will remain open because I suspect there will be a lot of other questions that we would like to submit as well as following the recommendations made.

Are there any other statements that you would like to submit by way of answer to questions that have not been asked?

Mr. **Egger**. There may be some, Mr. Chairman, where we feel that our response should be more complete than it has been, we will be working with your staff——

Chairman **Rangel**. Let me suggest that the *Snyder* case might be one.

Mr. **Egger**. That will be the first one, I assure you, but there may be others.

Chairman **Rangel**. Let me thank you for your past cooperation. There is no question in my mind that you and this committee will be able to work closely together to see whether we can have guidelines that the taxpayer would know exist, and to try to get the law in the ranges in such a fashion that we can maintain the integrity of the system.

Thank you very much.

[The following was submitted subsequent to the hearing. Testimony continues on p. 572.]

COMMISSIONER OF INTERNAL REVENUE
Washington, DC 20224

RECEIVED
OCT 14 1982
Ways and Means
Subcommittee on Oversight

OCT 13 1982

Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is in reply to your letter dated June 10, 1982, wherein you asked for additional material in relation to the Subcommittee's hearing on April 26, 1982, regarding "Taxpayer Safeguards".

The enclosed material is separately tabbed to coincide with each of your 10 requests. Responses to requests numbered 3 and 10 include information subject to the provisions of section 6103 of the Internal Revenue Code and are so marked.

We believe it would not be proper to respond to the first part of request number 5 concerning Mr. Graham's eleven questions. These questions appear to be more a reflection of opinions and frustration with the tax system, and any response may only precipitate further endless questions. We have, however, included material dealing with the general subjects raised by Mr. Graham's questions.

With kind regards,

Sincerely,

Roscoe Egger

Enclosure

Department of the Treasury Internal Revenue Service

Request #1

1. Provide the Subcommittee with a complete review and fact sheet of the case involving Mr. Dwight Snyder. This report should include the complete background and record leading up to and including the "seizure incident" plus copies of the written record of the Service and/or other agencies that support and led to the use of the "armed strike force" involved. (To the extent Mr. Snyder's written disclosure authorization does not allow publication in the hearing record of any portions of this report, provide such information to the Subcommittee on a separate document clearly noting that I.R.C. Section 6103 information is contained.)

From the onset of our investigation to determine his tax liabilities for 1971 and 1972, Mr. Snyder had attempted to delay and impede our activities. We have divided our background information into three categories: I, Preparation of 1971 and 1972 Income Tax Assessments; II, Decision Making Process Prior to the Seizure of Mr. Snyder's Property; and III, The Seizure.

I Preparation of the 1971 and 1972 Income Tax Assessments:

(A) 1971 Income Tax Assessment

(1) We have no record of Mr. Snyder filing an income tax return for 1971. However, in a conversation with Revenue Officer Jennings on July 29, 1976, Mr. Snyder stated he filed a zero dollar return for 1971, citing the Fifth Amendment. He alleges that on September 5, 1975, the Service notified him that the return could not be accepted as filed. See Attachment 1, History Sheet dated July 29, 1976.

(2) In 1975, a Garrett County, Maryland government official, and a former IRS employee, now a Garrett County businessman, both stated Mr. Snyder has openly acknowledged the fact that he does not pay taxes and the government has not done anything about it. He and other protesters in the county also refuse to pay real estate taxes. See Attachment 2, Report Transmittal, prepared by a revenue agent.

(3) Based on information summonsed from Mr. Snyder's banks, the IRS prepared a tax return under the authority of Internal Revenue Code Section 6020. On April 14, 1975, the IRS mailed a Statutory Notice of Deficiency to Mr. Snyder's last known address. It was returned by the Postal Service on April 29, 1975, stamped "refused." No action was taken by

Mr. Snyder to appeal the assessment. See Attachment 3, IRC 6020, and Attachment 4, Notice of Deficiency and Statement - Income Tax Changes.

(4) On September 8, 1975, the Internal Revenue Service Center in Philadelphia, Pennsylvania, mailed a "Statement of Adjustment to Your Account" notifying Mr. Snyder of the tax assessment. Mr. Snyder responded by letter stating "it has probably been miss-sent." Additionally, he added to our notice a jurat which he requested we consider. See Attachment 5.

(5) On October 31, 1975, we responded to Mr. Snyder by informing him that if he does not agree with the assessment, he may pay the tax and then file a Claim. Mr. Snyder responded on November 8, 1975, by stating that he is refuting the constitutionality of the assessment and requested a trial by jury. See Attachment 6.

(6) On November 13, 1975, Mr. Snyder submitted a Claim requesting the full assessment be abated because it violates "Due Process of Law and Internal Revenue Section 6212(a)." See Attachment 7.

(7) In response to our computer-generated demand for payment dated November 21, 1975, Mr. Snyder on November 22, 1975, referred us to his claim and asserted he had never received his notice of deficiency. See Attachment 8.

(8) On December 29, 1975, Mr. Snyder responded to our December 12, 1975 request for payment making the same claims as in his November 22, 1975 letter. See Attachment 9. He prepared the same response on January 11, 1976, in answer to our Final Notice Before Seizure dated January 2, 1976. See Attachment 10.

(9) In March, 1975, Mr. Snyder addressed a letter of complaint to Senator Joseph Montoya, who forwarded Mr. Snyder's letter to Senator Glenn Beall, Jr. The Service responded to Senator Beall's inquiry on March 25, 1976. See Attachment 11.

(10) On April 19, 1976, an IRS employee called Mr. Snyder to schedule an appointment to review his claim for abatement of the tax. Mr. Snyder stated he would prefer a jury trial. He would not agree to a specific date for appointment and requested a letter scheduling a time. On that same day, the Service mailed a letter to Mr. Snyder scheduling an appointment for May 4, 1976, at 1 P.M. See Attachment 12.

(11) Mr. Snyder responded on April 26, 1976, by asking for a 90 day extension to answer and requesting a Power of Attorney form which we mailed to him on April 29. See Attachment 13.

(12) An IRS employee called Mr. Snyder on May 7, 1976, requesting he supply books and records for review to reconsider his tax assessment. He again refused to schedule a date for a meeting. See Attachment 14.

(13) On May 12, 1976, Mr. Snyder wrote to IRS stating he received the Power of Attorney form and that his counsel will notify us as soon as he has had time to review the case. Neither Mr. Snyder nor a representative ever contacted the Service. See Attachment 15.

(14) On July 29, 1976, Revenue Officer Jennings made a field visit with Mr. Snyder at his cabinet making shop. Mr. Snyder again claimed he was not afforded his appeal rights. Since the revenue officer did not have ready access to the Examination file at the time, he postponed taking any action until he checked into Mr. Snyder's allegation. See Attachment 1, History Sheet dated July 29, 1976.

(15) In December, 1976 Mr. Snyder filed an Injunction in the U.S. District Court, requiring the Service to stay collection action. The Injunction was dismissed in October, 1977.

(B) 1972 Income Tax Assessment

(1) On April 15, 1973 Dwight and Hallie Snyder filed an Individual Income Tax return for 1972 with no information other than their names and addresses with a 104 page "Petition and Protest" attached.

(2) Ignoring several requests for information, Mr. Snyder never voluntarily produced any books and records for inspection by Revenue Agent Lyden. As a result, the Service prepared a Form 1040 based on bank deposits and business expenses determined from Department of Labor statistics.

(3) On November 10, 1976, Mr. & Mrs. Snyder were notified of the tax computation. While Mr. Snyder responded, he did not address the proposed deficiency amount, nor did he provide any figures of his own. Instead, the Snyders petitioned Tax Court questioning the basis for the tax determination. The method for determination and the amount of taxable income were upheld by the court.

(4) In the decision to hold the amount of income tax as determined, Judge Irwin stated, "Snyder generally contends that respondent was arbitrary in his determination and harrassed him during the audit. Apparently it is his contention the burden of proof thereby rests with respondent. Far from this being the case, however, Snyder proved to be intransigent, uncooperative and obstreperous throughout the proceedings. During the course of the audit of Synder's 1972 'return', Internal Revenue Service personnel provided him with every opportunity to show proper computation of his taxable income, and respondent voluntarily provided him with copies of the revenue agent's work papers. Nevertheless, Snyder never came forward with any information which could contradict the findings made by the revenue agent, nor were any books or records ever voluntarily produced for inspection. Clearly, a taxpayer cannot refuse to cooperate with the agent conducting a tax investigation and then claim that the resulting determination by the respondent was arbitrary when the agent acted reasonably, taking into consideration the information available to him." (TC Memo 1[illegible]-478 dated November 29, 1978, p. 1849-38). See Attachment 16, Tax Court Memorandum Decision concerning Petitioners J. Dwight and Hallie Snyder, and Robert Swartzentruber.

Mr. Snyder's continuous delays in 1975 and 1976 were very costly to the Service. While the Service was attempting Mr. Snyder for taxes he was transferring his assets to relatives and to a trust for the benefit of his children, placing them out of the Service's reach. See Attachment 17, Mr. Cunningham's History Sheets dated September 16, 1976 and April (day unknown), 1978 and Attachment 18, Continuation of Mr. Soares' History Sheet dated February 17, 1980.

II Decision Making Process Prior to Seizure of Mr. Snyder's Property

The history of dealings with tax protesters in Western Maryland has been a constant litany of confrontations in which IRS employees were subjected to threats, verbal abuse and subtle physical intimidation.

The entire record of dealings with Mr. Snyder followed this same pattern. Revenue officers were threatened, intimidated by shows of force, and confronted by forceful methods which interfered with their attempts to conduct their business. The planning of the seizure was conditioned upon the premise that potentially, any seizure of Mr. Snyder's assets could erupt into a violent confrontation. The seizure action itself was a last resort that had been forced upon the Service by Mr. Snyder's extreme uncooperativeness.

(A) The following prior actions taken by Mr. Snyder led us to believe our revenue officers might have been in physical danger had special agents and/or U.S. marshals carrying firearms not accompanied them to the seizure:

(1) On May 24, 1973 and May 25, 1973 Special Agent Henderson visited Mr. Snyder's and another person's premises regarding a tax matter of a third individual. On both occasions, a group of 15 people gathered around Mr. Henderson and taped his conversation. At the latter meeting, someone in the crowd lit a firecracker or cherry bomb while Mr. Henderson and Revenue Agent Lyden had their backs turned.

(2) During the course of his investigation to prepare Mr. Snyder's 1971 tax deficiency, Mr. Lyden had found the tax protester movement in Oakland, Maryland to be widespread. See Attachment 19, Report Transmittal. On several occasions when he was working the area, his car would be blocked in by one or more cars of the local residents and a crowd of 15-20 people would gather and make derogatory comments.

(3) On July 29, 1976, Revenue Officer Robert Jennings made field contact with Mr. Snyder at his shop. At that time, Mr. Snyder stated that the U.S. tax system is, in many ways, unconstitutional and that it violates individual rights. He said, "If anyone tries to seize my property, there will be trouble." Mr. Snyder further stated there were several "posses" in the area and asked Mr. Jennings if he (Jennings) knew the meaning of "posse comitatus" or "Peoples Grand Jury." Mr. Snyder advised Mr. Jennings to find out what those things meant.

(The Sheriff's Posse Comitatus, also known as the Citizens' Law Enforcement Research Committee (CLERC), is a loose-knit nationwide organization established in Portland, Oregon, in 1968. It is not aligned with any religious group. The SPC is a nonaffiliated offshoot of the Identity Group (IG), a California based tax rebellion organization. The SPC claims that the Federal Reserve System and the graduated income tax are "ultra vires and not lawful," and that the federal judiciary has attempted to establish "a dictatorship of the courts over the citizens of the Republic."
The SPC calls for the establishment of a posse in each county to assist the only legitimate law enforcement authority, the county sheriff, in combating the unlawful acts of others, particularly those of Federal and state officials.
Some members of the SPC have advocated the assassination of Federal law enforcement agents and have engaged in acts of provocation and assault against Federal and other law enforcement officials. In 1976, the leader of the posse comitatus in Wisconsin was convicted of battery of a police officer, resistance of arrest and obstruction of the duty of a police officer. In May 1982, a founder of the posse in Wyoming, along with four associates, was convicted of assault on a Federal official.)

Throughout the interview, Mr. Snyder was accompanied by an unidentified man who, during the interview, summoned another man who parked behind the revenue officer's car so that Mr. Jennings was unable to leave the premises. See Attachment 20, Assault or Threat of Assault Report and Attachment 21, Revenue Officer Jennings' History Sheet dated July 29, 1976.

(4) On August 23, 1976, Mr. Jennings spoke with Mr. Snyder on the telephone. During their conversation, Mr. Jennings advised Mr. Snyder of possible enforcement action.

Mr. Snyder: "If you take any 'illegal' seizure action I'll take whatever steps I need to."
Mr. Jennings: "Well, whatever steps I take will be legal ones."
Mr. Snyder: "That's what you all say. You take your action and I'll take mine. I won't tell you what action I'll be taking though."
See Attachment 2, History Sheet dated August 23, 1976 and Attachment 20, Assault or Threat of Assault Report.

(In December 1976, Mr. Snyder filed an Injunction requiring the Service to stay any enforcement action. The Injunction was dismissed in October 1977. In 1975 and 1976, Mr. Snyder took steps to transfer his assets to family members to prevent IRS from taking seizure action.)

(5) On August 25, 1977, Revenue Officers Cunningham and Novinsky attempted to secure information concerning Mr. Snyder's airplanes located on a neighbor's property. The revenue officers received permission from the occupant of the real property to look at some airplanes in a hangar situated there. As the revenue officers were looking at the airplanes, Mr. Snyder and an unidentified man approached them and demanded to know what the revenue officers were doing there. The revenue officers identified themselves and said they had permission to be there. Mr. Snyder ordered them off the property and grabbed a notebook in which Mr. Cunningham had been noting the airplanes' serial numbers. Mr. Snyder told the revenue officers that they had better get out of there if they knew what was good for them. See Attachment 22, History Sheet dated August 25, 1977.

(6) On August 31, 1977, Revenue Officer Cunningham returned to the airfield, accompanied by three IRS Inspectors. This time, they were successful in securing the needed information from the airplanes and left without incident. However, as they were leaving the restaurant at which they had stopped for lunch, an unidentified man approached them and asked if they were with IRS. He then asked them to wait for the sheriff, made a few phone calls from a booth, left for a few minutes, and returned with another man. Shortly thereafter, Mr. Snyder appeared with a third unidentified man, demanding that the IRS employees identify themselves. Meanwhile, the Inspectors called their manager to report the incident.

A few minutes later, the City Investigator from the State Attorney's Office, and a city policeman arrived. Mr. Snyder wanted the IRS employees arrested for trespassing at the airport.

While this discussion took place, the Inspectors' manager called the restaurant and asked to speak to one of his employees. Instead, one of the unidentified men answered the phone claiming to be the Inspector. When the manager demanded to speak to his employee the man said "If you want to speak to Inspector Hoffman, you better check the morgue."

The IRS employees were finally allowed to leave. Shaken by the incident, Mr. Cunningham was escorted home by the Inspectors. See Attachment 23, History Sheet dated August 31, 1977, Attachment 24, Affidavit, and Attachment 25, Inspection Report Sheet.

(7) In Fall of 1977, Special Agent Don Temple and Revenue Officer Cunningham went to Mr. Snyder's shop to serve a summons to an employee regarding a different tax matter. Mr. Snyder "rallied" some associates to organize a crowd and get the situation out of control thereby creating a precarious and possibly dangerous situation.

During investigations conducted by our Collection and Criminal Investigation Divisions, we learned the following about Mr. Snyder:

- He was believed to be a leader of the local posse comitatus;
- He had Revenue Officer Cunningham and employees of our Criminal Investigation Division followed. As a result, Mr. Cunningham was taken off the Snyder case and it was then reassigned to Revenue Officer John Sparks.
- Mr. Snyder owns several weapons.

(B) Meetings were held between December 14, 1979, and the day of the seizure, February 21, 1980, with the Baltimore District Director, representatives from the Collection and Criminal Investigation Divisions, Regional Counsel and the Public Affairs Officer to discuss a plan of action that would ensure that IRS personnel would have control of the seizure, that the assets being seized would be protected, and that our employees would be protected from any possible danger. During these meetings the following decisions were made:

(1) January 25, 1980: The normal procedure of mailing another "final" notice or making contact prior to effecting the seizure would not be taken. Based on previous experience, Service employees feared Mr. Snyder would remove or transfer his assets if forewarned of our action. The revenue officer would not attempt to obtain a consent to enter the premises from Mr. Snyder before going to the U. S. District Court to obtain Writs of Entry. Since Mr. Snyder had been so uncooperative in the past, it would be extremely unlikely he would consent to our entering his premises to conduct a seizure.

(2) January 29,1980: Because of the amount of property in Mr. Snyder's house and shop, plus the number of vehicles, eight revenue officers were assigned to conduct the seizures. The revenue officers were not armed.

One locksmith, two tow truck operators and three moving van employees were hired to secure and remove the assets.

At this meeting, it was also decided that the seizure would have to include the property in Mr. Snyder's residence.

Entrance was necessary to protect our employees by removing the weapons believed to be in the house. Entrance to the residence was also necessary to remove any valuable assets that could be sold to liquidate the $73,910 tax liability.

(3) February 12, 1980: A plan was devised to protect the revenue officers during the seizure. Eight armed special agents were deemed necessary to escort the revenue officers. The Service anticipated that Mr. Snyder would rally his followers once again, which indeed he did, and that an armed escort would be necessary to avoid a confrontation and to allow the seizure to be conducted without interference.

Two inspectors of our Internal Security Division were present to serve as witnesses. The Service, aware of the sensitivity of the case and possible adverse publicity that might have occurred, wanted to take additional precautions to make sure the rights of the taxpayer were not violated. The inspectors were armed in the event the special agents required assistance.

Two Maryland state troopers were needed to direct traffic on the narrow road adjacent to the property. The troopers did not become involved in the seizure.

Additionally, the Service asked for assistance from the Deputy Chief U.S. Marshal to enforce the U.S. District Court's Writ of Entry. Service personnel are unable to enter personal residences without permission from the taxpayer; U. S. Marshals may forceably enter. The number of U.S. Marshals present was determined by the Deputy Chief U.S. Marshal Earl Brown, not by the Internal Revenue Service. The Deputy Chief U.S. Marshal, once learning Mr. Snyder was a member of the posse comitatus, stated they had information that the posse comitatus had used violence in other parts of the country and determined that eight U.S. Marshals would be necessary to accompany the IRS employees. Also, the Deputy Chief U.S. Marshal felt that a visible show of power would be the best way to control the situation.

III The Seizure

On February 21, 1980 at 9:00 a.m., the revenue officers began to conduct the seizure with the assistance of the special agents, U.S. Marshals, a tow truck driver and moving van employees. The seizure was completed at 5 p.m.

(A) The Shop: Mr. Snyder was in the Cabinet Shop when the revenue officers, U.S. Marshals and other IRS employees arrived. As required prior to taking seizure action, the revenue officers requested full payment of the tax liability, Mr. Snyder refused to pay. He was then presented with the document authorizing levy of his property, plus the writ of entry, and informed that the contents of the shop were now the property of the U.S. Government. The revenue officers then inventoried the property.

(B) The Residence: Mrs. Snyder and their two children were in the house when the revenue officers, U.S. Marshals and other IRS employees knocked at the door. Mrs. Snyder was then asked for full payment. She stated she could not pay, was then also presented with the levy document and writ of entry. At the entrance to the house were Mr. Snyder's weapons: eight shotguns and rifles, two of which were loaded. They were confiscated by the U.S. Marshals and returned to Mr. Snyder when the IRS employees left the premises.

In addition to the furniture and other items in the residence, the service took possession of $5,992.85 in cash, 110 Kennedy half dollars, a 3M copier, a typewriter and an electric calculator.

During the investigation, the Service learned Mr. Snyder owned several bars of silver bullion worth approximately $150,000 which were thought to have been in a safe in the house. The revenue officers were unable to locate the bullion during the seizure.

(C) Vehicles: In addition to the assets removed from the shop and residence, a 1979 Chevrolet pickup truck and a John Deere garden tractor were seized. After receiving permission from the neighbor to enter, the tractor was removed from the neighbor's property.

The property and the tractor were loaded into the moving van and placed in a storage facility. The pickup truck was towed to a garage in the Baltimore area for safekeeping.

As the seizure took place, a crowd of Mr. Snyder's associates did attempt to congregate and distract the activities of the seizure. Two individuals were carrying firearms and a third drove onto Mr. Snyder's property with a gun visible in the rear window of his pickup truck. See Attachment 26, History Sheet dated February 21, 1982, and Attachment 27, Memorandums regarding the seizure.

Attachment 1

TDA History Sheet

Taxpayer's Name J. Dwight Snyder	EI Number —
	SS Number 220-30-8543

Employer Self-employed	Bank Terra Alta Bk. (8) Terra Alta, WV.	Telephone Number 334-2662

Reason for Liability
audit Deficiency adjustment.

Corrective Action Taken
N/A.

Filing Status *(Indicate compliance. Check all returns considered)*

☐ 941	SEE	☐ 1040
☐ 940	COMPLIANCE SHEET	☐ 1120
☐ FTD's		☐ Other

Record Checked	Telephone Directory	City Directory	Postal Records	Courthouse Records	Office Records	Soc. Sec. Administration	Bank	Other
Date →	—	—	—	07-29-76	—	—		

Date	Revenue Officer	Contacts
07-28-76	RLJ	A Received TDA 1060 7112.
		⊘ Lien Det. Date: 09-27-76.
		A checked phone directory for T/P number. may be | Snyder's Cabinets Bortner 334-2662
		⊘ Secure IDRS TXSUMRY, etc...
07-29-76	RLJ	A made F/V to P.O. T/P lives about 4 miles south of Oakland on Rt. 219 – sign says "Snyder's Cabinets".
	Ct House	A made F/V to CH. no property shown in T/P's name. (just cursory check; need to recheck in depth).
		A made F/V to T/P address. Requested payment of T/L. T/P stated not legal assessment because didn't receive notice proposing assessment as provided in IRC 6212(a) and therefore was denied Appeal Rights, Court Trial, etc. T/P said the first notification he had of the liability was letter saying he was previously notified of change to tax account and of appeal rights. Basic issue is Didn't have Appeal Rights. I agreed to try to ascertain status of

Date	Revenue Officer	Contacts
		the notice proposing assessment and to contact him within 30 days to let him know status of my inquiry.
		T/P refused to give F/S saying that would violate his rights under 4th + 5th Amendment. to Constitution. Said if anyone tries to seize my property there WILL BE TROUBLE! Said there are already several posses ("posse cumitatis") – a "Peoples Grand Jury."
		T/P was accompanied thru inter-view by one man, who at a point during the interview went and got another man – the latter of whom parked behind my car, blocking me in. He had some comments during interview with T/P about how corrupt IRS is and said "why don't you get out of it and get a good job" – he moved his vehicle to let me out when I was ready to leave.
		T/P stated he used to be a strict obeyer of tax laws, etc. but IRS set up a wrongful additional assessment for meat taken out of business for family use. He said he had wrote up a sale each time he took meat for family, then reporting it as income, so IRS wrong-fully set up addit. tax.
		Said another time IRS made him pay self social security tax on an exempt employee... wrongfully.
		Per T/P, outline of correspondence on case: (1) Filed 1040 71✓ timely, showing no figures and pleading 5th Amendment – said he "wished to give no info be-cause when you did you were taken advantage of..." (2) Letter from IRS dated 09-05-75 – "Return not acceptable as filed..."

Date	Revenue Officer	Contacts
		(3) Letter to IRS (date unknown)— "Tell me how I can file without violating my consti-tutional rights ... and I'll be glad to do so ..."
		(4) Letter from PSC dated 10-31-75— "We wrote you earlier explaining changes and appeal rights ... as we received no record of appeal, we sent a statu-tory notice allowing 90 days to file petition with U.S. Tax Court..."
		(5) Letter to PSC (date unknown, but received by PSC 11-18-75)— "Didn't receive notice [mentioned above in item 4] proposing assessment... therefore, appeal rights were by-passed."
07-30-76	RLJ	# Checked IDRS TXSUMRY. no other "Balances."
		# Tom Lyden busy today - Spvr. visiting - will talk soon.
1st WEEK AUG.		# R/O Jennings on LEAVE.
2d WEEK AUG.		# R/A LYDEN on LEAVE.
		☑ Contact TTP by 08-27-76.
08-16-76	RLJ	# Spoke with R/A Lyden. He said IRS did fulfill its obligation with regard to sending the 90-day letter proposing assessment. It "sent letter certified to TP's last known residence." Said P.O. notified TTP several times and he refused/failed to pick up the letter. Therefore, he "avoided" getting it.
		# Secured info from R/A Jim Hamilton TTP had bank account(s) at Terra Alta Bank, Terra Alta, W.Va.
		# Phoned GM. Reviewed case to date with him and indicated that I think we should prepare for the possibility that there will be trouble. He said he'll do some checking to see how we should proceed.

Form MAR-828 (Rev. 9-74) *Dispose of all prior issues*

Department of the Treasury—
Internal Revenue Service

Attachment 2

REPORT TRANSMITTAL

TOTAL HOURS 24

NAME AND ADDRESS OF TAXPAYER
J. Dwight Snyder
Rt 2 Box 113
Oakland, Md 21550

RELATED CASES OR KEY CASE

RETURN FORM NO. 1040	YEARS ~~OR PERIODS~~ 7112
RETURN FORM NO.	YEARS OR PERIODS

AGREEMENT
☐ FULL ☐ PARTIAL ☒ NONE

OTHER INFORMATION *(Unagreed issues and important information not covered in workpapers or report)*

The examination of the taxpayer was initiated by the Intelligence Division who requested a cooperating Revenue Agent. I was assigned to the case on Aug 10, 1973. Until he retired on June 30, 1974 Mr Glen Henderson was the special agent. Andrew Rutkowski was then assigned to the case and is currently reviewing the taxpayer's bank records and conducting a letter canvass in an attempt to determine the taxpayer's income.

Special Agent Henderson's first contact with Mr Snyder occurred when he visited his place of business seeking information about a delinquent taxpayer believed to be an employee of Mr Snyder. Mr Snyder made an appointment to meet Mr Henderson the following day and suggested the delinquent taxpayer may be present.

I was scheduled to meet Special Agent Henderson in Oakland, Md. the day of the appointment and he asked me to accompany him as a witness. The delinquent taxpayer, Mr Snyder and the party we were to contact were believed to be members of a loosely knit group of tax protestors. (See the memorandum of the interview at Mr Snyder's place of business, Workpapers pages 3-4.)

At this point Special Agent Henderson initiated an examination of Mr Snyder. The taxpayer's records from two Oakland, Md banks and from The Terra Alta Bank of Terra Alta, W.Va were summoned. Mr Snyder became a party with several other taxpayers enjoining the banks from giving the Service any records. The government replied to the restraining order and it was dropped from the docket. The two Oakland, Md. banks made and/or are making the summoned records available. It was necessary for the government to get a Court Order before the Terra Alta bank agreed to turn over records.

TN I have encountered Mr. Snyder at my audit of three taxpayers who attempted to make verbatim tape recordings of the interviews. Although

EXAMINING OFFICER	DATE	APPROVED BY (Signature of reviewer)
Thomas P.	2-20-75	LH-1

COMPUTATIONS VERIFIED AKA

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE FORM 4665 (8-70)

FORM 886-A
(REV APRIL 1968)

EXPLANATION OF ITEMS

~~SCHEDULE NO. OR EXHIBIT~~

NAME OF TAXPAYER
Snyder, Dwight

YEAR/PERIOD ENDED
7112

Mr Snyder and the others who were at these interviews remained somewhat silent the comments made left a definite impression that Mr Snyder was a strong influential leader for those who listened to what the protestors advocate.

The followers of this protest movement have taken three positions in regard to the filing of Federal tax returns. The first position, which Mr. Snyder did in 1971, was not to file a return. The second position was to offer vocal agreement to the tax protest movement while actually filing a complete return. The third position was to file page one of the return and making a notation " See Petition and Protest consisting of 12 pages attached hereto; also 7 pages of sworn testimony of Roland P. Graham, Vice-President and General Counsel of the Federal Reserve Bank of Minneapolis and the Daily Eagle of Feb. 7, 1969, attached hereto, 104 pages" The gist of the attachment points to the unconstitutionality of both the income tax law and the monetary system of the United States.

Mr Snyder's failure to file a tax return for 1971 was not, because he believed the government failed to comply with they law and that we are on a false money standard, but, rather, he was using this as a guise to avoid his having to pay his tax liability. I strongly believe this to be the case because an individual or group with a strong conviction of a wrong or injustice presents an alternate means to replace what they don't believe. Mr.

FORM 886-A (REV. APRIL 1968)

EXPLANATION OF ITEMS

SCHEDULE NO. OR EXHIBIT

NAME OF TAXPAYER: Snyder Dwight

YEAR/~~PERIOD~~ ENDED: 7112

Snyder does not have alternate methods or theories to replace what they say must be changed.

Former Internal Revenue Agent now a businessman in Garrett County, Md. has frequently commented that Mr Snyder was the most outspoken advocate of non-compliance with the Federal income tax law.

stated many individuals are aware of the position taken by the tax protestors with some lending vocal encouragement and others stating they are taking a 'wait and see' attitude. By that they are saying lets see what the government will do to Mr Snyder and his followers before we proceed along those lines.

for Garrett County, Md., stated on several occasions that Mr Snyder has created a lot of unrest among taxpayers because he openly acknowledges the fact he does not pay taxes and the government has not done anything about it. The protestors also refuse to pay real estate taxes.

and are in contact with the majority of people in Garrett County, Md.

Both these men have stated that Mr Snyder and his followers are frequently the subject of conversation.

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

GPO : 1971 O - 108-138

FORM 886-A (REV. 4-68)

FORM 886-A
(REV. APRIL 1968)

EXPLANATION OF ITEMS

~~SCHEDULE NO. OR EXHIBIT~~

NAME OF TAXPAYER
Snyder, Dwight

YEAR ~~PERIOD~~ ENDED
7112

The Taxpayer has been the subject of an investigation by Intelligence Division since June of 1973. They were delayed in their investigation by the Taxpayer securing a restraining order. The Intelligence Division has ledger sheets from the Garrett National Bank of Oakland, Md. showing $\$65,093^{87}$ in deposits to his 'business' checking account and $\$2165^{42}$ in what is referred to as his 'personal' or 'butcher' account for deposits totalling $\$67,259^{29}$.

Mr Snyder's cabinet making business is primarily the making of formica tops. Prior to this business Mr. Snyder had a butcher shop located on the same premises as he now operates the cabinet making shop. Mr Snyder still maintains locker space which he rents to customers for storage of frozen meats, etc. Intelligence Division has information the taxpayer owns four rental properties which house one or two families in each. All known sources of income to the taxpayer are from taxable sources

The taxpayer is non-cooperative with Intelligence or audit and has attempted to stifle the investigation by bringing suit restraining the banks from giving us records and encouraging others not to cooperate with us. The income tax liability is being determined by using the total deposits as adjusted gross income while allowing the standard deduction of $\$750^{00}$ for a married individual filing separately. Three exemptions are allowed the taxpayer, his wife and daughter based on information)

FORM 886-A (REV APRIL 1968)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT
NAME OF TAXPAYER Snyder, Dwight		YEAR/PERIOD ENDED 7112

from Intelligence Division and the 1970 return in arriving at taxable income.

Intelligence Division has copies of the taxpayer's cancelled checks. We recognize the fact the taxpayer did have expenditures in generating income but for us to say what is actually a legal business expense is nothing more than a calculated guess. Likewise, to say the deposits are the taxpayers only receipts while allowing checks written against these deposits to be business expenses would not be in the best interest of the government. In view of the fact the Taxpayer failed to file a return, to cooperate in the investigation, lived in high style (Taxpayer owns two airplanes) Federal income and self-employment tax are being asserted on the known deposits.

Section 6653 (b) of the 1954 IRC provides that, if any part of the underpayment of tax required to be shown on the return is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment. Since the Taxpayer did not file a return "on or before the last day prescribed for filing of such return" and the entire tax due was an underpayment within the meaning of Section 6653 (b) of the 1954 IRC. The only question then is whether any part of the underpayment was due to fraud.

Mr. Snyder by his actions had adequate knowledge of the Federal tax laws and requirement to file

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

FORM 886-A (REV. 4-68)

FORM 886-A
(REV. APRIL 1968)

EXPLANATION OF ITEMS

~~SCHEDULE NO. OR EXHIBIT~~

NAME OF TAXPAYER	YEAR/~~PERIOD~~ ENDED
Snyder, Dwight	7112

Our records indicate the taxpayer did not file a 1971 tax return, that he is one of the strong leaders of a tax protest group, that he attempts to persuade others not to comply and he is uncooperative. It is concluded that the taxpayer's failure to file a return for the year 1971 was fraudulent and in deliberate defiance of the law. He received substantial income as evidence by the deposits and he knew that he had to pay tax on this income since he had filed returns for previous years. His failure to file returns can only be interpreted as an attempt to conceal this income from the Internal Revenue and his other actions plainly indicate a plan on his part to evade tax. The fact the Taxpayer uses the 'tax protest approach' for his failure to file a return does not mitigate the fraud.

The audit is being cutoff at the end of the 1971 year because of the possibility of the expiration of the statute of limitations for 1971. Our records showing the Taxpayer did not file a return for 1971 may be in error, or the Taxpayer may have filed in another region. Therefore, it is recommended a Statutory Notice of Deficiency be issued.

On December 26, 1974 the Intelligence Division stated they had no objection to our soliciting a consent. The consent was solicited on Jan 2, 1975 by mail and it has not been returned. On Jan 23 1975

GPO : 1971 O - 108-138

FORM 886-A (REV APRIL 1968)	**EXPLANATION OF ITEMS**	~~SCHEDULE NO. OR EXHIBIT~~
NAME OF TAXPAYER Snyder, Dwight		YEAR/PERIOD ENDED 7112

Intelligence Division was opposed we were unsuccessful in securing a consent. On Jan 21, 1975 Intelligence Division replied they had no objections to the issuance of a Statutory Notice of Deficiency, however, before such a notice is issued they would like to see a copy of the Statutory notice.

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

FORM 886-A (REV. 4-68)

Page 7

GPO : 1971 O - 108-138

(A) in the case of a decedent dying during 1977, by substituting "$120,000" for "$175,000",

(B) in the case of a decedent dying during 1978, by substituting "$134,000" for "$175,000",

(C) in the case of a decedent dying during 1979, by subsituting "$147,000" for "$175,000", and

(D) in the case of a decedent dying during 1980, by substituting "$161,000" for "$175,000".

Adjustment for certain gifts. The amount applica- e under paragraph (1) and the amount set forth in ragraph (2) shall each be reduced (but not below ro) by the sum of—

(A) the amount of the adjusted taxable gifts (within he meaning of section 2001(b)) made by the dece- dent after December 31, 1976, plus

(B) the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after Septem- ber 8, 1976.

eturns by beneficiaries.

he executor is unable to make a complete return any part of the gross estate of the decedent, he include in his return a description of such part and ame of every person holding a legal or beneficial st therein. Upon notice from the Secretary such n shall in like manner make a return as to such of the gross estate.

In '76, P.L. 94-455, Sec. 2001(c)(1)(J), substituted "$175,000" for "$60,000" in para. (a)(1) . . . substituted "$60,000" for "$30,000" in para. (a)(2) . . . added paras. (a)(3) and (a)(4), for estates of decedents dying after '76.

—P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" in subsec. (b), effective 2/1/77.

In '66, P.L. 89-809, Sec. 108, amended subsec. (a)(2) for estates of decedents dying after Nov. 13, '66. Prior to amendment a return was required if the gross U.S. estate exceeded $2,000.

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019. Gift tax returns.

general.

y individual who in any calendar quarter makes ransfers by gift (other than transfers which under n 2503(b) are not to be included in the total nt of gifts for such quarter and other than quali- haritable transfers) shall make a return for such er with respect to the gift tax imposed by subtitle

alified charitable transfers.

Return requirement. A return shall be made of qualified charitable transfer—

A) for the first calendar quarter, in the calendar ear in which the transfer is made, for which a eturn is required to be filed under subsection (a), r

B) if no return is required to be filed under ubparagraph (A), for the fourth calendar quarter n the calendar year in which such transfer is ade.

return made pursuant to the provisions of this agraph shall be deemed to be a return with respect any transfer reported as a qualified charitable sfer for the calendar quarter in which such trans- was made.

Definition of qualified charitable transfer. For poses of this section, the term "qualified charitable sfer" means a transfer by gift with respect to which a deduction is allowable under section 2522 in an amount equal to the amount transferred.

(c) Tenancy by the entirety.

For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c).

In '70, P.L. 91-614, Sec. 102(d)(3), substituted new Sec. 6019, effective for gifts made after 12/31/70. Prior to amendment, it read as follows:

"SEC. 6019. GIFT TAX RETURNS.

"*(a) In general.*

"Any individual who in any calendar year makes any transfers by gift (except those which under section 2503(b) are not to be included in the total amount of gifts for such year) shall make a return with respect to the gift tax imposed by subtitle B.

"*(b) Tenancy by the entirety.*

"For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c)."

SUBPART D.—MISCELLANEOUS PROVISIONS

Sec.

6020. Returns prepared for or executed by Secretary.

6021. Listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.

Sec. 6020. Returns prepared for or executed by Secretary.

(a) Preparation of return by Secretary.

If any person shall fail to make a return required by this title or by regulations prescribed thereunder, but shall consent to disclose all information necessary for the preparation thereof, then, and in that case, the Secretary may prepare such return, which, being signed by such person, may be received by the Secretary as the return of such person.

(b) Execution of return by Secretary.

(1) Authority of Secretary to execute return. If any person fails to make any return (other than a declaration of estimated tax required under section 6015) required by an internal revenue law or regulation made thereunder at the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, the Secretary shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(2) Status of returns. Any return so made and subscribed by the Secretary shall be prima facie good and sufficient for all legal purposes.

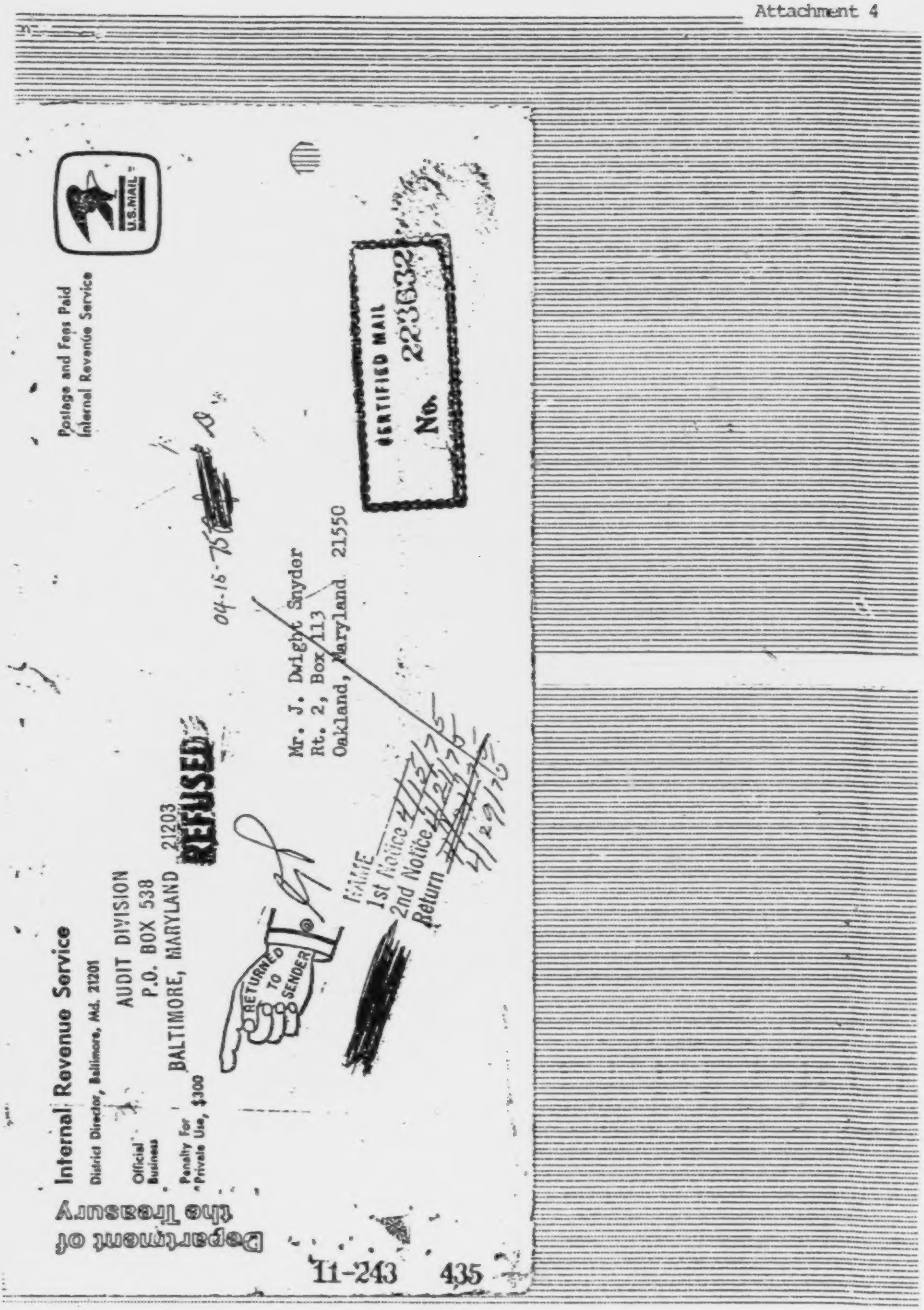
In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 6020, effective 2/1/77.

In '68, P.L. 90-364, Sec. 103, amended subsec. (b)(1) by deleting "or 6016" at end of parenthetical phrase, applicable with respect to tax. yrs. begin. after 12/31/67. For special provision on effective date see Sec. 104 of the P. L., reproduced after Code Sec. 6425.

Sec. 6021. Listing by Secretary of taxable objects owned by nonresidents of internal revenue districts.

Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the Secretary, as required by law or by regulations prescribed pursuant to law, the Secretary shall enter the premises where such articles are situated,

Attachment 4



Internal Revenue Service
District Director, Baltimore, Md. 21201

Official Business

Penalty for Private Use, $300

AUDIT DIVISION
P.O. BOX 538
BALTIMORE, MARYLAND 21203

Postage and Fees Paid
Internal Revenue Service

U.S.MAIL

REFUSED

RETURNED TO SENDER

04-16-75

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

CERTIFIED MAIL
No. 223632

[redacted]

NAME
1st Notice 4/17/75
2nd Notice 4/21/75
Return 4/29/75

11-243 435

Ev I

Internal Revenue Service
District Director

Department of the Treasury

Date: APR 14 1975

Tax Year Ended and Deficiency: Penalty:
12/31/71 - $32,244.94-$1612.25

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Person to Contact: Mr. J.L. Zimmerer
Au:CS:SN:JLZ:Was
Contact Telephone Number:
301-962-3093

Dear Mr. Snyder

This letter is a NOTICE OF DEFICIENCY—as required by law—that we have determined the income tax deficiencies shown above. We regret we have been unable to reach a satisfactory agreement in your case. The enclosed statement shows how the deficiencies were computed.

If you do not intend to contest this determination in the United States Tax Court, please sign and return the enclosed waiver form. This will permit an early assessment of the deficiencies and limit the accumulation of interest. The enclosed self-addressed envelope is for your convenience.

If you decide not to sign and return the waiver, the law requires that after 90 days from the date of mailing this letter (150 days if this letter is addressed to you outside the United States) we assess and bill you for the deficiencies. However, if within the time stated you contest this determination by filing a petition with the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, we may not assess any deficiencies and bill you until after the Tax Court has decided your case. You can obtain a copy of the rules for filing a petition by writing to the Clerk of the Tax Court at the Court's Washington, D.C. address stated above.

If you intend to file a petition with the United States Tax Court, you must do so within the time stated above (90 or 150 days, as the case may be); this period is fixed by law, and the Court cannot consider your case if your petition is filed late.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Donald C. Alexander
Commissioner
By
Gerald H. Portney

District Director

Enclosures:
Statement
Waiver
Envelope

31 Hopkins Plaza, Baltimore, Md. 21201

Form L-21 (Rev. 11-74)

Form 4089 (Rev. November 1974)	Department of the Treasury - Internal Revenue Service Statutory Notice Statement - Waiver	Symbols Au:CS:SN:JLZ:Was

Name and Address of Taxpayer(s)

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Kind of Tax Income	☐ Copy to Authorized Representative		
Taxable Year Ended	Deficiency (Increase in Tax and Penalties)	Addition to Tax Section 6653(a)	TOTAL
December 31, 1971	$32,244.94	$1,612.25	$33,857.19

It is determined that all or part of the underpayment of tax required to be shown on your return for the taxable year ended December 31, 1971 is due to negligence or intentional disregard of rules and regulations. Consequently, the 5 per centum addition to the tax provided by section 6653(a) of the Internal Revenue Code is asserted.

See the attached explanation for the above deficiencies

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest provided by law.

Signature	▶		Date
	▶		Date
	By ▶	Title	Date

Note:

If you consent to the assessment of the amounts shown in this waiver, please sign and return the form in order to limit the accrual of interest and expedite our bill to you. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

If you later file a claim and the Internal Revenue Service disallows it, you may file suit for refund in a district court or in the United States Court of Claims, but you may not file a petition with the United States Tax Court.

Who Must Sign

If you filed jointly, both you and your spouse must sign. If the taxpayer is a corporation this waiver must be signed with the corporate name followed by the signatures and titles of the officers authorized to sign.

Your attorney or agent may sign this waiver provided his action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice of Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign one copy and return it; keep the other copy for your records.

Form 4089 (Rev. 11-74)

Form 4089 (Rev. November 1974)	Department of the Treasury - Internal Revenue Service Statutory Notice Statement - Waiver	Symbols An:CS:SH:JLZ:Kas

Name and Address of Taxpayer(s)

Mr. J. Dwight Snyder
Rt. 2, Box 113
Oakland, Maryland 21550

Kind of Tax Income	☐ Copy to Authorized Representative		
Taxable Year Ended	Deficiency (Increase in Tax and Penalties)	~~Addition to Tax~~ Section 6653(a)	TOTAL
December 31, 1971	$32,244.94	$1,612.25	$33,857.19

It is determined that all or part of the underpayment of tax required to be shown on your return for the taxable year ended December 31, 1971 is due to negligence or intentional disregard of rules and regulations. Consequently, the 5 per centum addition to the tax provided by section 6653(a) of the Internal Revenue Code is asserted.

See the attached explanation for the above deficiencies

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest provided by law.

Signature	▶		Date
	▶		Date
	By ▶	Title	Date

Note:

If you consent to the assessment of the amounts shown in this waiver, please sign and return the form in order to limit the accrual of interest and expedite our bill to you. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are so entitled; nor prevent us from later determining, if necessary, that you owe additional tax; nor extend the time provided by law for either action.

If you later file a claim and the Internal Revenue Service disallows it, you may file suit for refund in a district court or in the United States Court of Claims, but you may not file a petition with the United States Tax Court.

Who Must Sign

If you filed jointly, both you and your spouse must sign. If the taxpayer is a corporation this waiver must be signed with the corporate name followed by the signatures and titles of the officers authorized to sign.

Your attorney or agent may sign this waiver provided his action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

If this waiver is signed by a person acting in a fiduciary capacity (for example, an executor, administrator, or a trustee), Form 56, Notice of Fiduciary Relationship, should, unless previously filed, accompany this form.

If you agree, please sign one copy and return it; keep the other copy for your records.

Form 4089 (Rev. 11-74)

Form 5278 January 1975	Department of the Treasury - Internal Revenue Service Statement - Income Tax Changes	Return Form No. 1040	Schedule No. 1

Name of Taxpayer(s) J. Dwight Snyder	☒ Notice of Deficiency ☐ Settlement Computation		☐ Other *(specify)*
	Tax Years Ended		
1. Adjustments to income	12/31/71		
a. Unreported income	$67,259.29		
b. Standard deduction	(750.00)		
c. Exemptions	(2,500.00)		
d.			
e.			
f.			
g.			
2. Total adjustments	$64,484.29		
3a. ☒ Taxable income ☐ Adjusted gross income b. As shown in: ☐ Preliminary letter dated _____ ☐ Notice of deficiency dated _____ ☒ Return as filed	-0-		
4. ☒ Taxable income as revised ☐ Adjusted gross income as revised	64,484.29		
5. Tax	31,659.94		
6. Alternative tax if applicable *(from page _____)*			
7. Tax surcharge			
8. Corrected tax liability *(Lesser of line 5 or 6, plus line 7)*	31,659.94		
9. Less credits *(specify)* a.			
b.			
c.			
10. Balance *(line 8 less amounts on lines 9a through 9c)*	31,659.94		
11. Plus a. Tax from recomputing prior year investment credit			
b. Self-employment tax	585.00		
c.			
12. Total corrected income tax liability *(line 10 plus amounts on lines 11a through 11c)*	$32,244.94		
13. Total tax shown on return or as previously adjusted	-0-		
14. Statutory deficiency XXXXXXXXXXXX *(difference between lines 12 and 13)*	$32,244.94		

15. Additions to the tax *(listed below)*

Section 6653(a) (5% of $32,244.94)	$1,612.25

J. Dwight Snyder

Statement Schedule 2

Explanation of Adjustments

(a) It is determined that you had unreported income in 1971 in the amount of $67,259.29 representing unexplained deposits made to accounts at the Garret National Bank.

(b) In computing your tax you are allowed a standard deduction of $750.00, the maximum allowable on the separate return of a married taxpayer.

(c) In computing your tax you are allowed three exemptions, one each for yourself, your wife and your daughter.

Computation of Self-Employment Tax

Maximum amount subject to self-employment tax	$7,800.00
Self-employment tax as corrected (7.5% of $7,800.00)	$585.00

Attachment 5

CERTIFIED MAIL NUMBER 165543

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pennsylvania 19020

September 11, 1975

Greetings,

Received the attached notice today, and I'm puzzled as to its meaning. Obviously, it doesn't pertain to me as the amount represented is far above any amount that I could be responsible for. As such it has probably been miss-sent. In the event, unlikely though it is, that this document was intended for my action, I have added a statement to it that I would appreciate your consideration of. If I cannot have a signature on this form, I'm sure that you must agree that the document is worthless! If any possibility exists that the form represents an attempt to obtain a collection from me, then I must assure you that I will demand due process of law, including a trial by jury.

Your immediate attention to this matter is necessary!

Sincerely,

J. Dwight Snyder

J. Dwight Snyder
Rt. 2 Box 113
Oakland, Maryland 21550

cc:

ACRPA

Sen. Montoya

Department of the Treasury
Internal Revenue
Service Center
P.O. BOX 57
CORNWELLS HEIGHTS, PA, 19020

Date of This Notice
SEP. 8, 1975 5201 22
Identifying Number
220-30-8543
Document Locator Number
52247-229-00501-5
Form Number Tax Period
1040 DEC, 31, 1971

◀ If you inquire about your account, please refer to these numbers or attach ◀ a copy of this notice.

ZV 220308543 30 7112 670

J DWIGHT SNYDER
RT 2 BOX 113
OAKLAND MD 21550

1

STATEMENT OF ADJUSTMENT TO YOUR ACCOUNT

BALANCE DUE ON ACCOUNT BEFORE ADJUSTMENT			$.00
	ADJUSTMENT COMPUTATION		
TAX- INCREASE		32,244.94	
PENALTY-	SEE EXPLANATION 01	8,061.24	
	SEE EXPLANATION 06	1,612.25	
INTEREST CHARGE		6,761.28	
NET ADJUSTMENT	CHARGE		48,679.71
	BALANCE DUE		$48,679.71

RECEIVED
SEP 23 1975
PSC

Under penalties of perjury, I hereby declare that the sums represented on this form are accurate, and have been determined to be presently due and owing.

16,19

Attachment 6

Nov 8, 1975

F. Steinberg
Internal Revenue Service Center
11601 Roosevelt Boulevard
Philadelphia, Pennsylvania 19155

Greetings;

Inre; your letter dated October 31, 1975, (copy attached):

In the first paragraph of said letter, there appears the following error: "We wrote you earlier explaining the changes and your appeal rights before assessment of the additional tax."

This has not been done. Had I received said letter, I would have hastened to take proper steps to implement the appeal procedures mentioned in this letter.. The last correspondence received from you is dated September 5, 1975. An answer from you is presently being awaited to the many issues raised therein.

This most recent letter from your office raises some very serious questions. First the law requires that I receive notice of a deficiency.

SECTION 6212 NOTICE OF DEFICIENCY

> (a) (as ammended by Sec. 89 (b), Technical Amendments Act of 1958, P.L. 85-866, 72 Stat. 1606, and Sec. 101 (j) (40) Tax Reform Act of 1969, IN GENERAL- If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A or B of Chapter 42, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

In the reading of this statute I can find no exceptions to its clear command. That means that said deficiency cannot be imposed upon me until this procedural error has been corrected.

The second paragraph of this letter states; "This tax is now due and the law requires that it be paid." Were this portion of your letter true, then it becomes clear that we are involved not with a system of orderly taxation, but rather we are involved with a system of confiscation. In our system of Government confiscatory taxation is expressly prohibited by the 4th Amendment to our Constitution. This Fourth Amendment states in part;

4TH AMENDMENT, U.S. CONSTITUTION

" The right of the people to be secure in their persons, houses papers, and effects, agaist unreasonable searches and seizures shall not be violated;......"

There are no exceptions to this clear mandate! There were none contemplated. In Boyd -vs- U.S. this principle was furthered with the following language;

BOYD -vs- U.S. 116 U.S. 616; 29 L. Ed. 746, 6 S.Ct. Rep. 524:
The well known historical purpose of the 4th Amendment, directed agaist general warrants and writs of assistance, was to prevent the use of governmental force to search a mans house, his person, his papers, and his effects, and to prevent their seizure against his will. This phase of the mis-use of governmental power of compulsion is the emphasis of the opinion of the court in the Boyd case."

Clearly then, the second paragraph of your letter is in error. It (second paragraph) goes on to say "If you do not agree with the adjustment and want your case to be given further consideration after you pay the tax, you may file the enclosed Form 843 to claim a refund." This sentence exemplifies a total disregard of my Constitutional Guarantees. Reduced to its simpler meaning it is simply saying, "Give us more than you have earned, then sue us for its return fully describing why it is that you want it returned, and then maybe we'll give you some consideration. " The basis for this type of illegal demand can best be found in the abolished star chamber proceedings. These courts were expressly founded to enforce such arbitrary proceedings as the then legal Courts were unable or unwilling to. In Blacks Law Distionary:"A court which originally had jurisdiction in cases where the ordinary course of justice was so much obstructed by one party, through writs, combination of maintenance, or overawing influence that no inferior court would find its process obeyed." A better description of

this case will never be found. Have Internal Revenue Service Statutes superceded our age-old laws including the Constitution of the United States of America? It would appear that any statute which states "Pay more than you earn and then sue for its return " clearly indicates that a branch of my government now operates my Government. Such an occurrence as that is totally impossible in our Constitutional Republic. The abundance of law expressly forbids it. One of the many examples of such impossibility can be found in:

OLMSTEAD -vs- UNITED STATES 277 U.S. at 483;

> ....and if this court should permit the government by means of its officers' crimes to effect its purpose of punishing the defendants, there would seem to be present all the elements of a ratification. If so, the government itself would become a lawbreaker."

and it further expounds on this principle at 484;

> ....a defense may be waived. It is waived when not pleaded. But the objection that the plaintiff comes with unclean hands will be taken by the court itself. It will be taken despite the wish to the contrary of all the parties to the litigation. The court protects itself. Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration

of the criminal law the end justifies the means--to declare that the government may commit crimes in order to secure the conviction of a private criminal---would bring terrible retribution. Against that pernicious doctrine this court should resoluteley set its face.

Thus it becomes clear that in this situation the government has chosen to act outside of its constitutional mandate, and as such this shall not be permitted.. In light of the past experiences of this letter writer with the Internal Revenue Service, it now becomes apparent that I must excercise my Constitutional Responsibility. In the past The Internal Revenue Service has;

(a) refused to return $500.00 in Social Security Taxes illegally collected.

(b) Kept records of my business for six months, during audit, then, the agent informed me that I owed an additional tax for merchandise that I allegedly converted to my personal use. I offered proof that said tax had been paid, I even volunteered the records in my possession for proof positive. The agent then became adamant, and informed me that this tax, regardless of whether I could prove that it had been paid or not, had to be paid again, or else my property would be seized!

My question now is this, can I conciously permit this most recent outrage to continue, or is it time we convene a jury to successfully determine these issues at hand? If I fail to excercise my responsibility at this point, where will it stop? Will the next issue be that property will be illegally seized and I be required to sue for it back? I certainly believe each incident gets worse. No, this time I must insist that your office obey our Constitution! Nothing less will satisfy this present issue.

Our Government is a Constitutional one, of, by and for the people. I am sending a copy of this letter to Senator Montoyas' Subcommittee in the hopes that such abuses of authority can be changed by proper legislation, so that in the future generation, Americans will not have to further tolerate such conduct from the very Government they are required to financially support. I believe in a system of FAIR taxation, one that writes confiscation out of the laws.

If your office should decide to answer this letter, fine. If your office should decide to ignore this letter, then I must insist that a trial by jury begin to decide this most vital issue. The sooner the better.

Sincerely,
J. Dwight Snyder
J. Dwight Snyder
Rt. 2, Boc 113
Oakland, Maryland 21550

Personally appeared before me this ____day of November, 1975, a Notary Public authorized by law to administer oaths, J. Dwight Snyder, and affirms that the foregoing letter is true as he verily believes.

Witness my hand and seal the date above first written.

____
Notary Public

My commission expires;

Address any reply to: 11601 Roosevelt Blvd., Philadelphia, Pa. 19155

Department of the Treasury

Internal Revenue Service Center
Mid-Atlantic Region

NOV 2 1 5
PHILADELPHIA
SERVICE CENTER
RECEIVED

Date	In reply refer to
October 31, 1975	C304- 28660991

th

J. Dwight Snyder
R 2, Box 113
Oakland, MD 21550

SSN 220-30-8543

Dear Mr. Snyder:

We wrote you earlier explaining the changes and your appeal rights before assessment of the additional tax. As we had no record of your filing an appeal, we sent a statutory notice allowing you 90 days to file a petition with the United States Tax Court. After the 90-day period expired, the tax was assessed.

This tax is now due and the law requires that it be paid. If you do not agree with the adjustment and want your case to be given further consideration after you pay the tax, you may file the enclosed Form 843 to claim a refund. If you do so, please complete all appropriate items on the form and explain in detail why you believe the refund should be allowed. We have enclosed a self-addressed envelope for your convenience.

Sincerely yours,

F. Steinberg
Chief, Taxpayer Assistance Section

Enclosures:
Form 843
Envelope

Attachment 7

Form **843** (Rev. July 1974)
Department of the Treasury
Internal Revenue Service

Claim

Director's Stamp (Date received)

NOV 1

For Internal Revenue Service Use Only

☐ Refund of taxes illegally, erroneously, or excessively collected.
☐ Refund of amount paid for stamps unused, or used in error or excess.
☐ Abatement of tax assessed (not applicable to income, estate or gift taxes).

Please print or type

Name of taxpayer or purchaser of stamps
J. Dwight Snyder

Number and street
Rt. 2 Box 113

City or town, State, and ZIP code
Oakland, Maryland 21550

Fill in applicable items—Use attachments if necessary

a. Your social security number: 220 30 8543
Spouse's number, if joint return:
b. Employer identification number (if any):

c. Internal Revenue Service office where return (if any) was filed

d. Name and address shown on return, if different from above

e. Period—if for tax reported on annual basis, prepare separate form for each taxable year
From .... 19.... to year of 1971
f. Kind of tax: INCOME

g. Amount of assessment: $ 32,244.94
Dates of payment

h. Date stamps were purchased
i. Amount to be refunded (if income tax, complete computation below) $
j. Amount to be abated XXXXXXXXXXXXXXX XXXXXXXXXXXXXX $ 32,244.94

k. Explain why you believe this claim should be allowed.

This assessment was illegally laid, violative of event the most miniscule principles of Due Process of Law and Internal Revenue Sec. 6212 (a).......

NOV 14 PHILADELPHIA SERVICE CENTER RECEIVED

Computation of Income Tax Refund	Income Tax
1 Tax withheld	
2 Estimated tax paid	
3 Tax paid with original return	
4 Any additional income tax paid	
5 Total tax paid (add lines 1–4)	
6 Your computation of correct tax	
7 Amount of overpayment (line 5 less line 6)	
8 Amount previously refunded	
9 Net overpayment (line 7 less line 8). Enter here and in item i above	

RECEIVED
District Director of Internal Revenue
MAR 19 1976
Audit
BALTIMORE

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signed J. Dwight Snyder

Dated 11-10-75, 19....

See instructions on reverse.

Form **843** (Rev. 7-74)

Attachment 8

SNYDER'S CABINETS
ROUTE 2, BOX ~~113~~ 119
OAKLAND, MARYLAND 21550
PHONE (301) 334-2662

November 22, 1975

RECEIVED
DEC 1
FE

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pa. 19020

52-0912412

Dear Mr. Morrill:

I received your letter dated November 21, 1975, today, November 22, 1975. In which you stated, that my payment of tax is over due. I know of no such tax due. You have in your office letters dated September 11, 1975 and October 10, 1975, in which I am still waiting for answers pertaining to this assessment.

I am hoping that you will not violate your oath of office, by not giving me a trail by jury. This privilege is guaranteed to me by our U.S. Constitution in Amendments VII and XIV. I have had no chance for an appeal of any kind, not even a District Conference, Appellet Conference or Tax Court.

I have also, filed a 843 form with you, in which I have not received an answer to this date.

Up to this time, you have not complied with Section 6212, Notice of Deficiency.

Please send me a copy of 586 as I would like to know if it corresponds with our U.S. Constitution. Also, I would like a copy of the following:

Code of Ethics of the I.R.S.	
9342	Selection of Taxpayers
9383.5	Electronic or Mechanical Eavesdropping
9444	Arrests without Warrants
9452	Seizures without Warrants
9774.1	Handbook for Special Agents
241.44	Electronic Listening Devices
284,51	Use of Raid Kits
9900	Handbook for Special Agents

Thanking you, in advance for this material; I am,

Yours truly,
J. Dwight Snyder
J. Dwight Snyder

220-30-8513

28760880

Attachment 9

SNYDER'S CABINETS
ROUTE 2, BOX 173-119
OAKLAND, MARYLAND 21550
PHONE (301) 334-2662

December 29,1975

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pa.19020

I received your letter dated December 11,1975, in which you stated you were working on my 1971 1040 return. You also, stated you would contact me as quickly as possible.

On December 24, 1975, I also, received another letter dated December 12,1975. In that letter you stated that you had written me previously. I have answeredevery letter that I have received from you. The truth is you have not answered any of my letters, dated: September 11,1975, November 11,1975, November 26,1975. I am still waiting answers to those letters. I also, filed an 843 form which I have had no reply.

I have asked for laws and regulations and also, my appeal rights in this case. To date, I have not received a word from you concerning any of this. I am asking again for my appeal rights, laws and regulations.

What kind of an assessment is this? If this is a jeopardy assessment when did I come under Sec. 6851?

If this is not a jeopardy assessment, you are required under 6212 to send a deficiency notice by certified or registered mail. Have you done this? If so, what date and who signed for it? Please send me a copy of the card so I can locate who received it.

I do not owe this bill and wish to have Due Process of Law. I will pay any tax that I lawfully owe.

I would also, like a copy of all the work sheets as to how my income was computed according to 453.3d.

Again, I am waiting an answer.

Yours truly,

J. Dwight Snyder

J. Dwight Snyder

two enclosures

Department of the Treasury
Internal Revenue Service

Date of this Letter
[illegible]-12-75
Identifying Number
[illegible]-30-[illegible] 2[illegible]
Document Locator Number
[illegible]254-299-01746-5

503 828 520[illegible]

◀ If you inquire about your account, please refer to these numbers or attach
◀ the copy of this letter

COPY

J DWIGHT SNYDER
RT 2 BOX 113
OAKLAND, MD 21550

Dear Taxpayer:

We have previously written you asking for payment of the Federal tax identified below, but we have no record of receiving it. The tax is overdue and you should pay it within the next 10 days to avoid additional interest and penalty charges, and enforced collection action.

The law authorizes us to file a Federal tax lien and seize your property, wages, or other assets to satisfy your tax liability. To prevent this enforcement action, we urge you to send your payment promptly to the address below or contact your nearest Internal Revenue Service office.

Please make your check or money order payable to the Internal Revenue Service, show your social security or employer identification number on it, and send it to us with the copy of this letter to insure prompt and accurate credit.

If the total amount due as shown below is incorrect because of a recent payment or other adjustment, please send us any balance due, and explain on the back of this letter.

An envelope is enclosed for your convenience. Thank you for your cooperation.

RECEIVED
JAN 05 1976
PSC

Sincerely yours,

Director

Enclosures:
Copy of this letter
Envelope

Tax Form Number . . .	1040
Tax Period Ended . . .	12-31-71
Balance of Prior Assessment $	48,679.71
Late Payment Penalty	
Interest	1,015.52
Total Amount Due . . . . . $	49,695.23

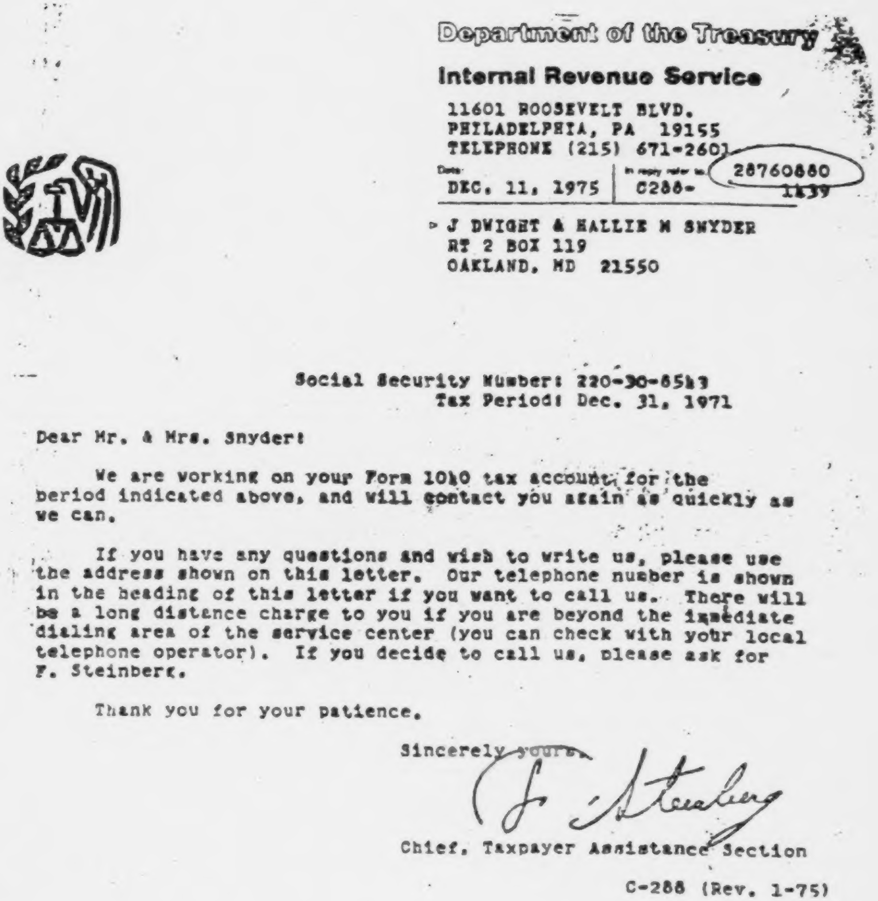
Reply to:

INTERNAL REVENUE SERVICE
P.O. BOX 57
CORNWELLS HEIGHTS, PA 19020

30-7112

29

Form [illegible]



Department of the Treasury
Internal Revenue Service
11601 ROOSEVELT BLVD.
PHILADELPHIA, PA 19155
TELEPHONE (215) 671-2601

Date: DEC. 11, 1975
In reply refer to: C288- 28760880
1839

J DWIGHT & HALLIE M SNYDER
RT 2 BOX 119
OAKLAND, MD 21550

Social Security Number: 220-30-6543
Tax Period: Dec. 31, 1971

Dear Mr. & Mrs. Snyder:

We are working on your Form 1040 tax account for the period indicated above, and will contact you again as quickly as we can.

If you have any questions and wish to write us, please use the address shown on this letter. Our telephone number is shown in the heading of this letter if you want to call us. There will be a long distance charge to you if you are beyond the immediate dialing area of the service center (you can check with your local telephone operator). If you decide to call us, please ask for F. Steinberg.

Thank you for your patience.

Sincerely yours,

F. Steinberg

Chief, Taxpayer Assistance Section

C-288 (Rev. 1-75)

Attachment 10

SNYDER'S CABINETS
ROUTE 2, BOX 119
OAKLAND, MARYLAND 21550
PHONE (301) 334-2662

January 11,1976

Internal Revenue Service
31 Hopkins Plaza
Baltimore, Maryland, 21201

Dear Mr. Portney:

I received your letter dated January 2, 1976 on January 7,1976. In which you stated that I had been notified previously of tax due. You also, stated that you have no record of reply from me. This is in error as I have replied to every letter which I have received. Listed below are the dates of the letters which I have mailed to you by certified mail:

1- August 14, 1975	Signed for by Mr. Karl F. Perkins
2- September 11,1975	Certified No. 165543
3- November 18,1975	" " 224833
4- November 26,1975	" " 233773
5- December 29,1975	" " 233775- 233774

I owe no such tax bill. As I have said in letters before, if you think that I do I am asking for "Due Process" of law. I have asked for my appeal rights, laws and have even filed an 843 form. To date, I have not received an answer of any kind to any of these letters.

I have not had a district hearing, appellent conference or an opportunity to appear in tax court. Again, what are my rights in this case?

What kind of assessment is this? Have you complied with Section 6212? If this is a jeopardy assessment, you should send me a deficiency notice within 60 days after assessment so I can file with the tax court. See Section 6861-B.

I would like a copy of all the work sheets used,under the 1967 Free Information Act.

This letter is the sixth notice that I have received from you to date. This represents a clear case of harrassment. I feel if this harrassment continues I will be forced to take appropiate legislation or other necessary measures to end said harrassment.

Yours truly,

J. Dwight Snyder

J. Dwight Snyder

Department of the Treasury
Internal Revenue Service

RECEIVED
1976
52 DIST. DIR. OF INT. REV.
CERTIFIED MAIL
BALTIMORE

Date of this Letter
[illegible]
Identifying Number
[illegible] 2V
Document Locator Number
[illegible]-5

504 - 526 [illegible]

If you inquire about your account, please refer to these numbers or attach the copy of this letter

J DWIGHT SNYDER
RT 2 BOX 113
OAKLAND, MD 21550

COPY

FINAL NOTICE BEFORE SEIZURE

Dear Taxpayer:

On previous occasions we notified you that your Federal tax identified below is overdue and must be paid. Since we have no record of a reply, this is our final notice and demand before seizure of your assets to enforce payment.

To prevent such action, please send us within 10 days from the date of this letter your check or money order for the total amount due, payable to the Internal Revenue Service. Please show your social security or employer identification number on it, and enclose the copy of this letter to assure prompt and accurate credit. An envelope is enclosed for your convenience.

If the total amount due as shown below is incorrect because of a recent payment or other adjustment, you should contact us at the address given at the bottom of this letter so we can correct your account.

Otherwise, 10 days after the date of this letter and with no further notice to you, any salary or wages due you will be levied upon by serving a notice of levy on your employer. Bank accounts, receivables, commissions or other income, property or rights to property belonging to you may also be seized.

Very truly yours,

Director

Enclosures:
Copy of this letter
Envelope

Tax Form Number	1040
Tax Period Ended	12-31-71
Balance of Prior Assessment $	48,679.71
Late Payment Penalty	
Interest	1,232.57
Total Amount Due . . . . . $	49,912.28

Reply to:

INTERNAL REVENUE SERVICE
31 HOPKINS PLAZA
BALTIMORE, MD 21201

30-7112

Form 4840 (8-71)

Attachment 11

Telephone: 301-962-3084

March 25, 1976

Honorable J. Glenn Beall, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Beall:

This refers further to your letter of December 4, 1975, concerning the tax and penalty for 1971 assessed against Mr. J. Dwight Snyder, Route 2, Box 113, Oakland, Maryland 21550 on September 8, 1975.

In a letter which Mr. Synder previously addressed to the Philadelphia Service Center, a copy of which you enclosed with your correspondence, he indicated that a notice of deficiency (authorized under section 6212 of the Internal Revenue Code of 1954) had not been issued prior to this assessment.

Since such a notice, unless waived, is a necessary prerequisite to the making of a deficiency assessment, we requested the administrative file of Mr. Snyder's audit to establish what had occurred.

We have recently received that file from our Service Center. It includes the original envelope with the original notice of deficiency which was mailed, by certified mail, to Mr. Snyder on April 14, 1975. The envelope is marked with the certified mail number, 223632. It is stamped with the word "Refused" and shows that the Postal Service left notices of attempted delivery with the addressee on April 15, 1975 and April 21, 1975. It was returned to our office on April 29, 1975. Under these circumstances, we must conclude that the requirements of section 6212 of the Code have been satisfied and that our assessment is not invalid.

Although claims for abatement of income tax are specifically precluded pursuant to section 6404(b) of the Internal Revenue Code, it is our administrative practice to give reconsideration to previously assessed income tax deficiencies to attempt to resolve any disputed adjustments as expeditiously as possible. Therefore, we will provide Mr. Snyder with an opportunity to present information or evidence relevant to a determination of his correct tax liability for 1971. He will be contacted by an agent to set up a date for a meeting.

We regret the unusual lapse of time in responding to your letter, but it was required so that we could have available the information necessary to making a meaningful reply.

As requested, we are returning the copy of Mr. Snyder's letter with its three attachments, the copy of the letter which he wrote to Senator Montoya, and the copy of Senator Montoya's reply.

If we can be of any further assistance to you in this matter, please let us know.

Sincerely yours,

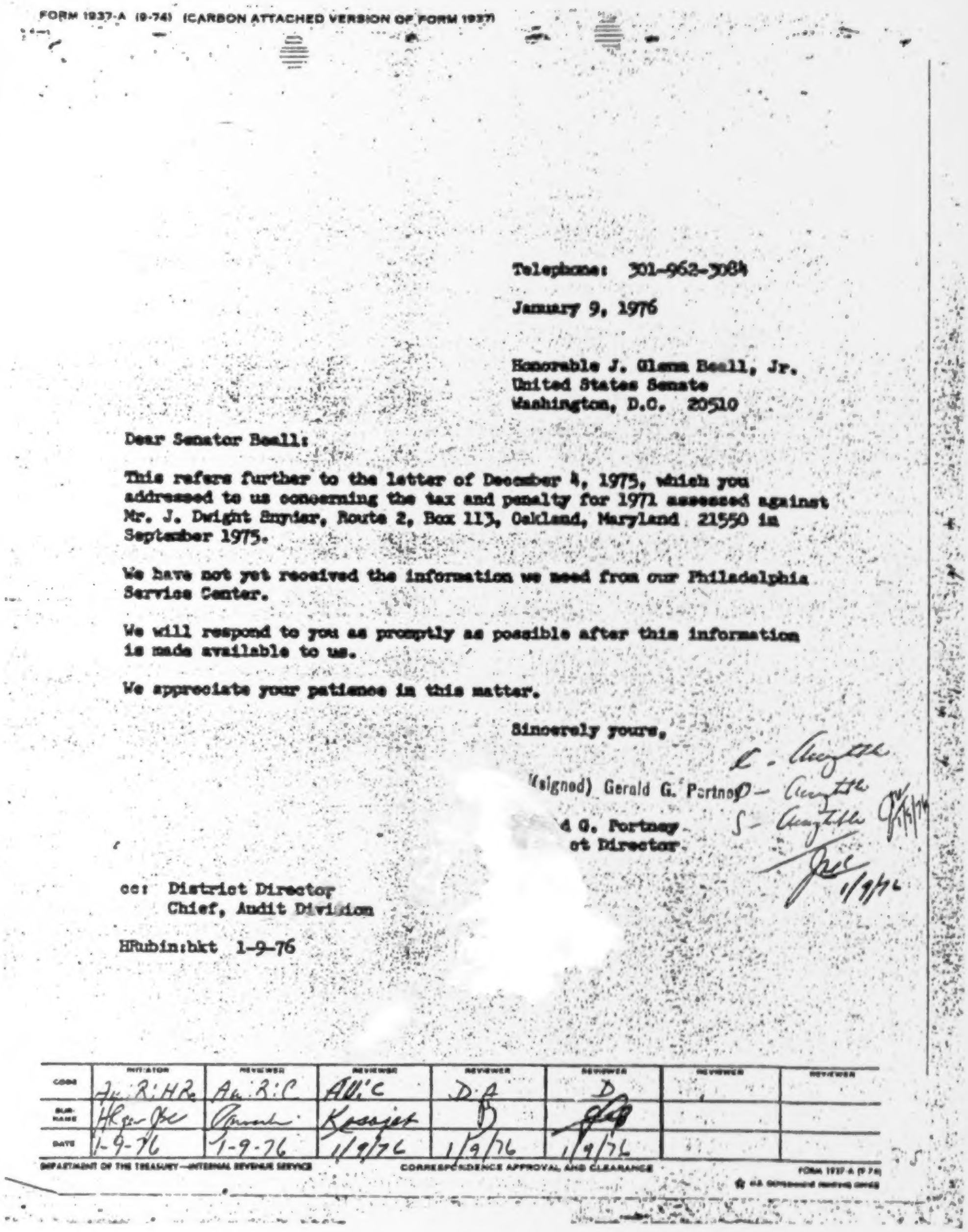
(signed) Gerald G. Portney

Gerald G. Portney
District Director

Enclosures 6

cc: District Director
Chief, Audit Division

HRubin:bkt 3-25-76



FORM 1937-A (9-74) (CARBON ATTACHED VERSION OF FORM 1937)

Telephone: 301-962-3084

January 9, 1976

Honorable J. Glenn Beall, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Beall:

This refers further to the letter of December 4, 1975, which you addressed to us concerning the tax and penalty for 1971 assessed against Mr. J. Dwight Snyder, Route 2, Box 113, Oakland, Maryland 21550 in September 1975.

We have not yet received the information we need from our Philadelphia Service Center.

We will respond to you as promptly as possible after this information is made available to us.

We appreciate your patience in this matter.

Sincerely yours,

(signed) Gerald G. Portney

[illegible]d G. Portney
[illegible]ct Director

C - Acceptable
D - Acceptable
S - Acceptable

1/9/76

cc: District Director
Chief, Audit Division

HRubin:bkt 1-9-76

	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
CODE	Au:R:HR	Au:R:C	AU:C	D:A	D		
SUR-NAME	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		
DATE	1-9-76	1-9-76	1/9/76	1/9/76	1/9/76		

DEPARTMENT OF THE TREASURY—INTERNAL REVENUE SERVICE CORRESPONDENCE APPROVAL AND CLEARANCE FORM 1937-A (9-74)

U.S. GOVERNMENT PRINTING OFFICE

FORM 1937-A (9-74) (CARBON ATTACHED VERSION OF FORM 1937)

Telephone: 301-962-3084

December 11, 1975

Honorable J. Glenn Beall, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Beall:

This is in reply to the letter dated December 4, 1975, which you addressed to us concerning the tax and penalty for 1971 assessed against Mr. J. Dwight Snyder, Route 2, Box 113, Oakland, Maryland 21550 in September 1975.

We are securing information from our Philadelphia Service Center which we believe necessary to respond in this matter.

We anticipate that we will make a further reply to you within ten days.

Sincerely yours,

(Signed) Gerald G. Portney

Gerald G. Portney
District Director

cc: District Director
Chief, Audit Division

HRubin:bkt 12-11-75

	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER	REVIEWER
CODE	Au:R:HR	Au:R:C	Au:Ac	D (A)			
SURNAME	Rubin		Davis				
DATE	12-11-75	12-11-75	12/11/75	12-11-75			

DEPARTMENT OF THE TREASURY—INTERNAL REVENUE SERVICE CORRESPONDENCE APPROVAL AND CLEARANCE FORM 1937 A (9-74)

U.S. GOVERNMENT PRINTING OFFICE

United States Senate

December 4, 1975

Respectfully referred to:

Honorable Gerald G. Portney
District Director
Internal Revenue Service
Federal Building
31 Hopkins Plaza
Baltimore, Maryland 21201

Because of the desire of this office to be responsive to all inquiries and communications, your consideration of the attached is requested. Your findings and views in duplicate form, along with return of the enclosure, will be appreciated by

RECEIVED
DEC 5 - 1975
District Director of Internal Revenue
REVIEW-AUDIT DIVISION
Baltimore

RECEIVED
[illegible]
DEC 5 1975

J. Glenn Beall, Jr.
U.S.S.

ns

Form #2

[illegible]
JOHN L. McCLELLAN, ARK.
WARREN G. MAGNUSON, WASH.
SPESSARD L. HOLLAND, FLA.
JOHN C. STENNIS, MISS.
JOHN O. PASTORE, R.I.
ALAN BIBLE, NEV.
ROBERT C. BYRD, W. VA.
GALE W. McGEE, WYO.
MIKE MANSFIELD, MONT.
WILLIAM PROXMIRE, WIS.
RALPH YARBOROUGH, TEX.
JOSEPH M. MONTOYA, N. MEX.

MILTON R. YOUNG, N. DAK.
KARL E. MUNDT, S. DAK.
MARGARET CHASE SMITH, MAINE
ROMAN L. HRUSKA, NEBR.
GORDON ALLOTT, COLO.
NORRIS COTTON, N.H.
CLIFFORD P. CASE, N.J.
HIRAM L. FONG, HAWAII
J. CALEB BOGGS, DEL.
JAMES B. PEARSON, KANS.

THOMAS J. SCOTT, CHIEF CLERK
WM. W. WOODRUFF, COUNSEL

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

November 13, 1975

Mr. J. Dwight Snyder
Route 2, Box 133
Oakland, Maryland 21550

Dear Mr. Snyder:

Thank you for writing me regarding the problem you have encountered with the Internal Revenue Service.

As you know, my Appropriations subcommittee has conducted a series of extensive hearings into the taxpayer assistance and compliance programs of the IRS. During those hearings we heard testimony from consumer advocates, taxpayers, and experts in the field of taxation, tax law enforcement, and the operations of the IRS itself. Many problems plaguing the taxpayer were made clear to us at those hearings.

As a result of the information which I received, I have become increasingly concerned with taxpayers' problems such as the one you described. Unfortunately, the large number of requests for assistance which I receive prohibits me from giving each the attention which it deserves. Therefore, I am forwarding your letter to one of the senators who represents your state, the Honorable J. Glenn Beall.

I am sure that he will appreciate knowing the opinions and problems of his constituency and will welcome the opportunity to serve you. You may be assured, however, that your comments have been most helpful to me.

With best wishes, I am

Sincerely,

Joseph M. Montoya
United States Senator

JMM/ssd

CC: Honorable J. Glenn Beall

Senator Joseph M. Montoya
Senate Office Building
Washington, D.C.

Dear Senator Montoya,

Having read of your participation in the Subcommittee of the Committee on Appropriations, I felt that I should write to you to add my voice to the many that have already contacted your committee. The hearings to which I refer were convened on April 9, 1974. I feel that this date is significant inasmuch as little if any change has taken place to restore confidence in the American system of taxation. It would appear that from the voluminous testimony taken by your committee, legislation would soon emanate from our congress to curb the monumental abuses perpetrated by the I.R.S. However, as much as this legislation is sorely needed, none has been forthooming. From your many comments to the many persons that testified before your committee, I was temporarily elated. I was sure that the beleagured taxpayer finally had an advocate in the Congress. No such elation remains, however, as the same procedures complained of are still part of the everyday operating procedures of the I.R.S. During your hearings you heard from several outstanding citizens, one of which was Mrs. Barbara Hutchinson. Mrs. Hutchinson informed you that a tax rebellion was sweeping the country. It seems to me that this type of rebellion could have been successfully stopped by our own Governments' proper response to the plight of the average taxpaying citizen. However here we are two years later still fighting the same bureaucratic tyranny.

I realize that you or your committee do not pass the laws, but, I firmly believe that your committee can and does influence some of the membership of the Ways and Means Committee that does write the laws. How simple, then, would it be to demand that the IRS, just like all other agencies of the Federal Government, abide strictly by the principles of "Due Process of Law".

We, the citizens of this once-great Country, witnessed the fall of a president. We were informed that this ugly situation was the result of the presidents failure to uphold the laws of the land. Then, we are told, that no man or group of men is above the law. How then, can we react, but in horror, at the constant abuses of the laws that the IRS perpetrates on a daily basis. We have seen the IRS even re-write laws to the advantage of the IRS only, and as always, ruining the dictum of Constitutional Law. Always the citizen is the loser in these re-writes. How much longer can the citizen be expected to sanction these tyrannical out-pourings of the IRS before he begins to react with violence.? We are now seeing Judges arming themselves with concealed weapons because they fear for their personal safety. There remains no doubt in our minds that these Judges realize that they are upholding illegal acts. It is almost as though some unseen power is dictating the outcome of the many court cases where these abuses of power are most apparent. Your committee has seen and heard enough that we believe some positive reaction to this illegality should by now have been apparent. But as yet, nothing positive has happened. When will some curative measure show itself?? I am enclosing a letter that is being sent to the IRS. It is one of a series of letters I have sent, I too, am now the target of an illegal "jeopardy assessment." I expect that at my trial my evidence will be dis-allowed by a judge, as has been the case at each trial of this type all across the U.S.A. Of late I've noticed that the public is reacting more strongly than at any time in my memory. One hardly goes anywhere anymore that he doesn't hear of some other person or group of persons that are challenging the establishment. Is this what our Government wants/ Is it possible that our Government is going to use this general dis-enchantment to bring about martial law and then a dictatorship? I hope you find time to answer this letter. I'd be most interested in your reactions to this letter. As to the materials I'm sending you, you may use them as you see fit. I do not want them returned.

Sincerely,

CERTIFIED MAIL NUMBER________

Internal Revenue Service
P.O. Box 57
Cornwells Heights, Pennsylvania 19020

September 11, 1975

Greetings,

Received the attached notice today, and I'm puzzled as to its meaning. Obviously, it doesn't pertain to me as the amount represented is far above any amount that I could be responsible for. As such it has probably been miss-sent. In the event, unlikely though it is, that this document was intended for my action, I have added a statement to it that I would appreciate your consideration of. If I cannot have a signature on this form, I'm sure that you must agree that the document is worthless! If any possibility exists that the form represents an attempt to obtain a collection from me, then I must assure you that I will demand due process of law, including a trial by jury.

Your immediate attention to this matter is necessary!

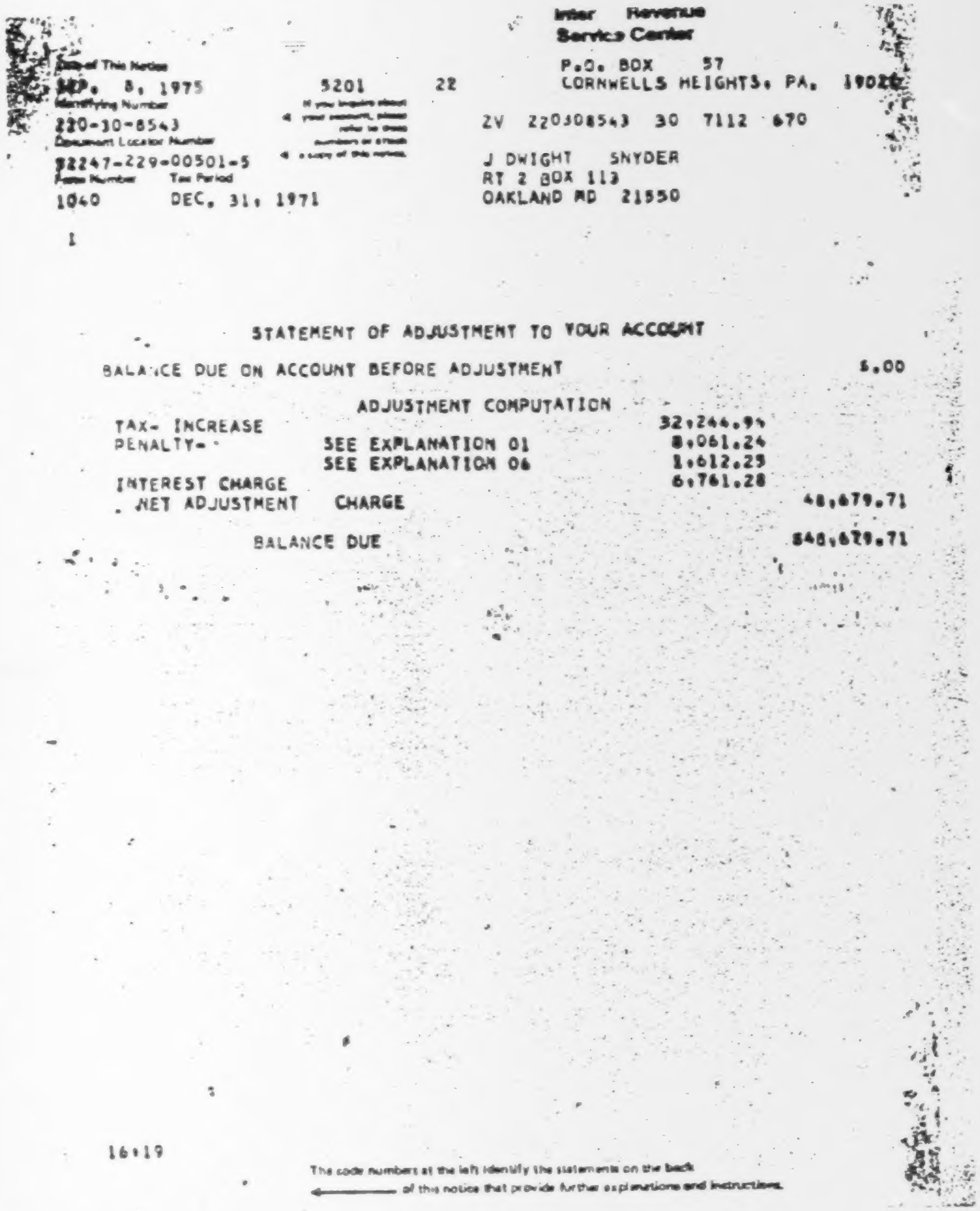
Sincerely,
J. Dwight Snyder

J. Dwight Snyder
Rt. 2 Box 113
Oakland, Maryland 21550

cc:

ACTPA

Sen. Montoya



Internal Revenue
Service Center
P.O. BOX 57
CORNWELLS HEIGHTS, PA. 19020

Date of This Notice
SEP. 8, 1975
Identifying Number
220-30-8543
Document Locator Number
22247-229-00501-5
Form Number / Tax Period
1040 DEC. 31, 1971

5201 22

If you inquire about your account, please refer to these numbers or attach a copy of this notice.

ZV 220308543 30 7112 670

J DWIGHT SNYDER
RT 2 BOX 113
OAKLAND MD 21550

1

STATEMENT OF ADJUSTMENT TO YOUR ACCOUNT

BALANCE DUE ON ACCOUNT BEFORE ADJUSTMENT			$.00
ADJUSTMENT COMPUTATION			
TAX- INCREASE		32,244.94	
PENALTY-	SEE EXPLANATION 01	8,061.24	
	SEE EXPLANATION 06	1,612.25	
INTEREST CHARGE		6,761.28	
NET ADJUSTMENT	CHARGE		48,679.71
BALANCE DUE			$48,679.71

16:19

The code numbers at the left identify the statements on the back
← of this notice that provide further explanations and instructions.

October 31, 1975 C304- 28660991

th

J. Dwight Snyder
R 2, Box 113
Oakland, MD 21550

SSN: 220-30-8543

Dear Mr. Snyder:

We wrote you earlier explaining the changes and your appeal rights before assessment of the additional tax. As we had no record of your filing an appeal, we sent a statutory notice allowing you 90 days to file a petition with the United States Tax Court. After the 90-day period expired, the tax was assessed.

This tax is now due and the law requires that it be paid. If you do not agree with the adjustment and want your case to be given further consideration after you pay the tax, you may file the enclosed Form 843 to claim a refund. If you do so, please complete all appropriate items on the form and explain in detail why you believe the refund should be allowed. We have enclosed a self-addressed envelope for your convenience.

Sincerely yours,

F. Steinberg
Chief, Taxpayer Assistance Section

Enclosures:
Form 843
Envelope

F. Steinberg
Internal Revenue Service Center
11601 Roosevelt Boulevard
Philadelphia, Pennsylvania 19155

Greetings;

Inre; your letter dated October 31, 1975, (copy attached);

In the first paragraph of said letter, there appears the following error:

"We wrote you earlier explaining the changes and your appeal rights before assessment of the additional tax."

This has not been done. Had I received said letter, I would have hastened to take proper steps to implement the appeal procedures mentioned in this letter., The last correspondence received from you is dated September 5, 1975. An answer from you is presently being awaited to the many issues raised therein.

This most recent letter from your office raises some very serious questions. First the law requires that I receive notice of a deficiency.

> SECTION 6212 NOTICE OF DEFICIENCY
>
> (a) (as ammended by Sec. 89 (b), Technical Amendments Act of 1958, P.L. 85-866, 72 Stat. 1606, and Sec. 101 (j) (40) Tax Reform Act of 1969, IN GENERAL- If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A or B of Chapter 42, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

In the reading of this statute I can find no exceptions to its clear command. That means that said deficiency cannot be imposed upon me until this procedural error has been corrected.

The second paragraph of this letter states; "This tax is now due and the law requires that it be paid." Were this portion of your letter true, then it becom clear that we are involved not with a system of orderly taxation, but rather we are involved with a system of confiscation. In our system of Government confiscatory taxation is expressly prohibited by the 4th Amendment to our Constitution. This Fourth Amendment states in part:

4TH AMENDMENT, U.S. CONSTITUTION

" The right of the people to be secure in their persons, houses papers, and effects, agaist unreasonable searches and seizures shall not be violated;......"

There are no exceptions to this clear mandate! There were none contemplated. In Boyd -vs- U.S. this principle was furthered with the following language:

BOYD -vs- U.S. 116 U.S. 616; 29 L. Ed. 746, 6 S.Ct. Rep. 524;

The well known historical purpose of the 4th Amendment, directed agaist general warrants and writs of assistance, was to prevent the use of governmental force to search a mans house, his person, his papers, and his effects, and to prevent their seizure against his will. This phase of the mis-use of governmental power of compulsion is the emphasis of the opinion of the court in the Boyd case."

Clearly then, the second paragraph of your letter is in error. It (second paragraph) goes on to say "If you do not agree with the adjustment and want your case to be given further consideration after you pay the tax, you may file the enclosed Form 843 to claim a refund." This sentence exemplifies a total disregard of my Constitutional Guarantees. Reduced to its simpler meaning it is simply saying, "Give us more than you have earned, then sue us for its return fully describing why it is that you want it returned, and then maybe we'll give you some consideration. " The basis for this type of illegal demand can best be found in the abolished star chamber proceedings. These courts were expressly founded to enforce, such arbitrary proceedings as the then legal Courts were unable or unwilling to. In Blacks Law Distionary: "A court which originally had jurisdiction in cases where the ordinary course of justice was so much obstructed by one party, through writs, combination of maintenance, or overawing influence that no inferior court would find its process obeyed." A better description of

this case will never be found. Have Internal Revenue Service Statutes superceded our age-old laws including the Constitution of the United States of America? It would appear that any statute which states "Pay more than you earn and then sue for its return " clearly indicates that a branch of my government now operates my Government. Such an occurrence as that is totally impossible in our Constitutional Republic. The abundance of law expressly forbids it. One of the many examples of such impossibility can be found in:

OLMSTEAD -vs- UNITED STATES 277 U.S. at 483;

> ....and if this court should permit the government by means of its officers' crimes to effect its purpose of punishing the defendants, there would seem to be present all the elements of a ratification. If so, the government itself would become a lawbreaker."

and it further expounds on this principle at 484;

> ....a defense may be waived. It is waived when not pleaded. But the objection that the plaintiff comes with unclean hands will be taken by the court itself. It will be taken despite the wish to the contrary of all the parties to the litigation. The court protects itself. Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration

> of the criminal law the end justifies the means--to declare that the government may commit crimes in order to secure the conviction of a private criminal---would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face.

Thus it becomes clear that in this situation the government has chosen to act outside of its constitutional mandate, and as such this shall not be permitted,. In light of the past experiences of this letter writer with the Internal Revenue Service, it now becomes apparent that I must excercise my Constitutional Responsibility. In the past The Internal Revenue Service has;

(a) refused to return $500.00 in Social Security Taxes illegally collected.

(b) Kept records of my business for six months, during audit, then, the agent informed me that I owed an additional tax for merchandise that I allegedly converted to my personal use. I offered proof that said tax had been paid, I even volunteered the records in my possession for proof positive. The agent then became adamant, and informed me that this tax, regardless of whether I could prove that it had been paid or not, had to be paid again, or else my property would be seized!

My question now is this, can I conciously permit this most recent outrage to continue, or is it time we convene a jury to successfully determine these issues at hand? If I fail to excercise my responsibility at this point, where will it stop? Will the next issue be that property will be illegally seized and I be required to sue for it back? I certainly believe each incident gets worse. No, this time I must insist that your office obey our Constitution! Nothing less will satisfy this present issue.

Our Government is a Constitutional one, of, by and for the people. I am sending a copy of this letter to Senator Montoyas' Subcommittee in the hopes that such abuses of authority can be changed by proper legislation, so that in the future generation, Americans will not have to further tolerate such conduct from the very Government they are required to financially support. I believe in a system of FAIR taxation, one that writes confiscation out of the laws.

If your office should decide to answer this letter, fine. If your office should decide to ignore this letter, then I must insist that a trial by jury begin to decide this most vital issue. The sooner the better.

Sincerely,

J. Dwight Snyder
Rt. 2, Boo 113
Oakland, Maryland 21550

Personally appeared before me this ____day of November, 1975, a Notary Public authorized by law to administer oaths, J. Dwight Snyder, and affirms that the foregoing letter is true as he verily believes.

Witness my hand and seal the date above first written.

____
Notary Public

My commission expires;

Attachment 12

Snyder J Dwight

Snyder's Cabinet Shop 334-2662

Contacted Mr. J. Dwight Snyder on 4-19-76 to schedule an appt. for the review of his claim of abatement of tax assessed for the year 1971.

Mr. Snyder expressed he would prefer to have me schedule a jury trial.

I explained to him the case was assigned to me for reconsideration of the previously assessed income tax for 1971 to attempt to resolve any disputed adjustments. I further explained this was an opportunity to present evident (books + records) relevent to a determination of his correct tax liability for 1971.

Mr Snyder would not agree to a specific date for an appointment and requested I send him a letter for the scheduled time.

mailed 3-19-76.

April 19, 1976

Mr. J. Dwight Snyder
Route 2, Box 113
Oakland, Maryland 21550

Dear Mr. Snyder:

Per our telephone conversation, I have scheduled a meeting with you on May 4, 1976, at 1:00 P.M. at your place of business to discuss the claim you filed on Form 843 for the abatement of previously assessed income tax for 1971.

Please be sure to have all relevant papers, records and documents concerning the basis for your claim.

If the meeting time is inconvenient for you, please let me know so that a mutually agreeable time of appointment can be rescheduled. My phone number in Cumberland, Maryland, is 724-0053.

Thank you for your cooperation.

Sincerely,

Thomas P. Lyden
Internal Revenue Agent

Attachment 13

Route 2 Box 119
Oakland, Maryland
April 26, 1976

Internal Revenue Service
Audit Division
P.O. Box 524
Cumberland, Maryland, 21501

Dear Mr. Lyden:

I received your letter of April 19, 1976. Would you please send me a power of attorney form so that I can obtain counsel.

I would also, like to request that this interview be postponed for 90 days until I have suffient time to obtain said counsel.

Yours truly,

J. Dwight Snyder

J. Dwight Snyder

Attachment 14

Snyder, [illegible] Dwight 7112

5-7-76

I explain to Mr Snyder that claims for Abatement of income tax are specifically precluded pursuant to Section 6404(b) of the IRC but Through Adm practice reconsideration to the assessed income tax deficiency for 1971 is granted to attempt to resolve any disputed adjustments.

Mr Snyder said he did not retain counsel as of this date for the reason he just received the power of attorney, form 2848, and was under the impression he could not seek counsel until these forms were available.

I told Mr. Snyder he filed the claim for abatement of taxes, Therefore he must have books & records which reflect his income different from that determined in the previous audit. This was an opportunity for him to permit me to review the records for reconsideration of the previous finding. Mr Snyder said he needed to have counsel before making this decision.

I told Mr. Snyder that the request for 90 days is an excessive period of time because the claim and my prior conversations with him indicate he had proof that the tax was incorrect and can be found.

Mr Snyder remained evasive, would not agree to a meeting date within two weeks and said he 5
wanted to seek counsel, which he is entitled to do, before arranging a meeting.

As of 5-12-76 Mr Snyder said he has retained counsel without naming counsel

Power of attorney forms mailed to Taxpayer on 4-29-76 per his Request in letter dated 4-26-76

Called T/P 4-29-76 - Not in

Called T/P 5-4-76 - Not in.

Called T/P 5-6-76 Not in

Called T/P 5-7-76

Attachment 15

Route 2 Box 119
Oakland, Maryland
May 12,1976

Internal Revenue Service
Audit Division
P. O. Box 524
Cumberland, Maryland, 21501

Dear Mr. Lyden:

I received the 2848 forms Saturday, May 8, 1976. I have contacted counsel. As soon as he has time to review the matter, he will notify you.

Yours truly,

J. Dwight Snyder

J. Dwight Snyder

Attachment 16

spondent under authority of section 3 of the Code and have verified that the amount shown to be due was $400. Consequently, respondent was correct in asserting the deficiency for 1975.

Decision will be entered for respondent.

[CCH Dec. 35,554(M)] **J. Dwight Snyder and Hallie M. Snyder v. Commissioner. Robert Swartzentruber v. Commissioner.**

Docket Nos. 2917-76, 3143-76. T. C. Memo. 1978-478. Filed November 29, 1978. [Appealable, barring stipulation to the contrary, to CA-4.—CCH.]

[Code Secs. 446, 1402, 6651 and 6653]

[Accounting methods: Reconstruction of income: Bank deposits method: Estimated living expenses: Business expenses: Additions to tax: Failure to file returns: Negligence: Self-employment tax: Liability for.] In docket No. 2917-76, respondent used the bank deposits method of recomputing income due to inadequate records. *Held*, respondent's use of this method was reasonable under the circumstances. *Held, further*, amount of taxable income determined.

In docket No. 3143-76, *held, further*, amount of business expenses incurred determined; no casualty loss allowed. *Held, further*, taxpayer did not file an income tax return for 1971. *Held, further*, taxpayer is liable for self-employment tax.

J. Dwight Snyder, *pro se*, in Docket No. 2917-76. Robert Swartzentruber, *pro se*, in Docket No. 3143-76. Steven J. Mopsick, for the respondent.

Memorandum Findings of Fact and Opinion

IRWIN, Judge: Respondent determined deficiencies in income taxes and penalties thereon as follows:[1]

Docket No.	Petitioners	Year	Amount	Addition to Tax Sec. 6651(a)	Addition to Tax Sec. 6653(a)[2]
2917-76	J. Dwight and Hallie M. Snyder	1972	$9,432.72		$471.64
3143-76	Robert Swartzentruber	1971	300.76	$75.19	15.04
		1972	325.13	81.04	16.26

Due to concessions, the issues remaining to be decided are: (1) Whether respondent's determination of the Snyders' income by use of the bank deposits and expenditures method should be sustained; (2) Whether Swartzentruber is entitled to certain business deductions and a casualty loss; (3) Whether petitioners in both cases are subject to self-employment tax;[3] (4) Whether Swartzentruber filed an income tax return for the taxable years 1971 or 1972; (5) Whether petitioners in both cases are subject to negligence penalties under section 6653(a); (6) Whether Swartzentruber is subject to the late filing penalty under section 6651(a).

Findings of Fact

Some of the facts have been stipulated and are so found.

Robert Swartzentruber filed no Federal income tax return for the taxable year 1971. In 1972, Swartzentruber filed individually and J. Dwight and Hallie M. Snyder (hereafter the Snyders) filed jointly page 1 of Form 1040, U. S. Individual Income Tax Return, signing under the date of April 15, 1973, and containing no information except names and addresses. In the spaces provided for social security numbers, all petitioners inserted "Don't know." J. Dwight Snyder (hereafter Snyder) stated that his occupation was "businessman" and that his

---

[1] These cases were consolidated pursuant to respondent's motion.

[2] All statutory references are to the Internal Revenue Code of 1954, as in effect during the taxable years in issue.

[3] The deficiencies in docket No. 2917-76 and in both years in docket No. 3143-76 include self-employment tax.

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filing status was "married filing joint return." Swartzentruber inserted "labor" as his occupation and "single" as his filing status. There was deleted from the line above all petitioners' signatures the words "under penalties of perjury." In addition to their signatures at the bottom, the only other information provided on "returns" in both cases was a typed reference to certain attached materials entitled "Petition and Protest," consisting of 104 pages of materials which were attached to the blank 1040's. These attached materials consisted in part of petitioners' arguments against the validity of the monetary system of the United States and other constitutional arguments.[4]

Robert Swartzentruber resided in Oakland, Maryland at the time he filed his petition herein. J. Dwight and Hallie M. Snyder were also residents of Oakland, Maryland at the time they filed their petition herein.

During the taxable year 1972, Snyder was sole proprietor of a cabinet shop. He also rented 5 houses and freezer lockers he owned.

Snyder never voluntarily produced any books and records for inspection by the revenue agent. Respondent, therefore, used the bank deposits and expenditures method to determine Snyder's income.[5]

Respondent voluntarily provided Snyder, in a letter dated November 10, 1976, with his method of determining Snyder's net income. Where the revenue agent could not decide whether to treat an item paid for by Snyder as a personal item or as a business outlay it was treated as a business outlay, thus giving Snyder credit for it as a reduction in his adjusted gross income. Throughout the entire audit procedure, Snyder never addressed himelf to respondent's findings nor introduced evidence to contest the determination.

The revenue agent determined from bank deposits that Snyder had gross receipts in 1972 of $86,041.48, computed as follows:

Garrett National Bank Account No. 101-07199	$ 71,888.00
Garrett National Bank Account No. 101-05110	2,940.75
Terra Alta Bank Account No. 20-1048-8	15,422.26
Terra Alta Bank Account No. 10-2528-7	790.47
Terra Alta Bank—Savings Account	10,000.00
Total	$101,041.48
Less: Nontaxable deposits	(15,000.00)
Gross receipts	$ 86,041.48

At trial Snyder admitted that respondent's determination of his gross receipts was understated by $220.75.

The revenue agent's initial investigation showed that Snyder's total allowable expenses, substantiated by check, were $61,365.81, calculated as follows:

Garrett National Bank Account No. 101-07129	$53,525.98
Garrett National Bank Account No. 101-05110	2,964.15
Terra Alta Bank Account No. 20-1048-8	4,848.61
Terra Alta Bank Account No. 10-2528-7	27.07
Total	$61,365.81

From these calculations, respondent determined that Snyder had a net profit of $24,675.67 ($86,041.48 less $61,365.81). However, the revenue agent noticed that there were few personal necessities accounted for by check. He, therefore, referred to United States Department of Labor statistics showing average family living costs and determined a proper adjustment for cost of living to be $11,057. This amount was added to the $24,675.67 previously determined to arrive at an adjusted gross income of $35,732.67.

At trial, it was developed that the revenue agent may not have considered Snyder's checks which were written late in calendar year 1972 but which had not cleared his bank until 1973, nor checks written in late 1971 which had not cleared his banks until early 1972. By order of the Court, Snyder produced certain checks which resulted in a net reduction of $3,291.60 in his adjusted gross income as determined by the revenue agent.

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[4] The petition filed in this case by the Snyders contained no reference to constitutional arguments or arguments concerning the validity of the monetary system of the United States, but rather addressed itself only to allegations of error in respondent's determination of disallowed business deductions, personal exemptions, and depreciation.

The petition filed in this case by Robert Swartzentruber also contained no reference to constitutional arguments or arguments concerning the validity of the monetary system of the United States and concerned itself only with allegations of error in respondent's disallowance of business deductions and depreciation.

At trial and on brief, both the Snyders and Swartzentruber confined the presentation of their cases to respondent's determination of taxable income except for a Fifth Amendment argument made by Swartzentruber noted in the Opinion at Footnote 10.

[5] Respondent determined Snyder's net income by first determining his total deposits from known checking and savings accounts reduced by determinable nontaxable deposits such as interaccount transfers and then reducing this amount by allowable business expenses as shown by his business checks. To this amount respondent added cash expenditures for cost of living as determined from Department of Labor statistics.

During the taxable years 1971 and 1972, Swartzentruber was in the business of hauling. Swartzentruber owned a truck which he purchased in "dilapidated" condition in 1970 and which he used exclusively for his business. He also owned a Chevrolet automobile which he maintained for personal use. The truck was severely damaged in an accident in September 1972, but apparently was not replaced by a new truck during 1972.

Swartzentruber orally stipulated at trial that he received unreported taxable income in the amounts determined by respondent in the notice of deficiency.[*]

Swartzentruber never produced any books or records for the revenue agent's inspection during the audit proceedings.

Opinion

Respondent determined the Snyders' taxable income using the bank deposits and expenditures method. Respondent first totaled deposits from known checking and savings accounts and then reduced the deposits by determinable nontaxable deposits such as interaccount transfers. He then reduced this amount by allowable business expenses substantiated by petitioners' checks. To this amount, respondent added cash expenditures for cost of living expenses as determined from Department of Labor statistics. This method is an accepted means of recomputing income where deposits are made, the sources of which were either not shown by the taxpayer's books and records or where the taxpayer does not make his books and records available for audit. *Cupp v. Commissioner* [Dec. 33,450], 65 T. C. 68, 72 (1975), affd. 559 F. 2d 1207 (3d Cir. 1977). Although we agree with Snyder that the existence of bank deposits does not of itself show the sums deposited were income, where respondent has determined they were, the burden of proof is on the taxpayer to show the determination was wrong, *Jones v. Commissioner* [Dec. 22,721], 29 T. C. 601, 613-614 (1957), unless respondent was arbitrary in his determination or not entitled to use the bank deposits method.

Snyder generally contends that respondent was arbitrary in his determination and harassed him during the audit. Apparently, it is his contention the burden of proof thereby rests with respondent. Far from this being the case, however, Snyder proved to be intransigent, uncooperative, and obstreperous throughout the entire proceedings. During the course of the audit of Snyder's 1972 "return," Internal Revenue Service personnel provided him with every opportunity to show a proper computation of his taxable income and respondent voluntarily provided him with copies of the revenue agent's work papers. Nevertheless, Snyder never came forward with any information which would contradict the findings made by the revenue agent nor were any books or records ever voluntarily produced for inspection. Clearly, a taxpayer cannot refuse to cooperate with the agent conducting a tax investigation and then claim that the resulting determination by the respondent was arbitrary when the agent acted reasonably, taking into consideration the information available to him. *Estate of Mason v. Commissioner*, 64 T. C. 651 (1975), affd. 566 F. 2d 2 (6th Cir. 1977). Accordingly, we believe the burden of proof remains on petitioner. Rule 142(a), Tax Court Rules of Practice and Procedure.

Snyder further objects to the determination because he contends it is based only on hearsay and is at best only an approximation of his taxable income. Respondent's determination, however, was based upon an analysis of Snyder's bank deposits. See also *Weimerskirch v. Commissioner* [Dec. 34,214], 67 T. C. 672 (1977), on appeal (9th Cir., March 29, 1977); *Rosano v. Commissioner* [Dec. 28,087], 46 T. C. 681 (1966). Moreover, the bank deposits method does not require mathematical certainty and the taxpayer may not complain that respondent resorted to approximation where he failed to keep adequate records. *Harbin v. Commissioner* [Dec. 26,130], 40 T. C. 373 (1963).

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[*] The total amount of unreported taxable income determined by respondent results from payments received by Swartzentruber from Snyder for services rendered in the amount of $2,503.45 in 1971 and $2,828.35 in 1972. These figures represent Swartzentruber's only taxable income for these years and respondent allowed no deductions other than the personal exemption and standard deduction in computing Swartzentruber's income. We note that Swartzentruber admitted that he also worked for others on "rare occasions." Thus, to that extent, his income as determined by respondent is understated.

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Finally, Snyder contends that respondent's use of the Bureau of Labor Statistics to compute his living expenses was unfair and arbitrary when applied to him. However, it has been held that these statistics generally provide a reasonable basis for such a determination. *[illegible] v. Commissioner* [Dec. 34,970], 69 T. C. 729, 749 (1978), and Snyder has not shown otherwise, notwithstanding his portrait of his family as simple country folk who grew their own food and made their own clothing.

Snyder has attempted to rebut respondent's determination largely through his own testimony and two documents of doubtful value produced at trial which he claimed related to his calculation of taxable income.[7] Snyder failed to introduce into evidence underlying checks, receipts, and other documents which he claimed to have and which he stated at trial he would introduce in support of his vague and unconvincing testimony.[8] This falls far short of the evidence required to rebut respondent's determination.

Swartzentruber orally stipulated that he received unreported taxable income in the amount determined by respondent.[9] However, he contends that respondent failed to give him credit for certain business expenses, including depreciation, relating to his truck which he used in his hauling business. He also apparently contends that he is entitled to a casualty loss deduction on the "total loss" of the truck due to an accident.

Swartzentruber correctly notes that respondent has allowed him no deductions for business operations relating to his truck. Nonetheless, the burden of proof is upon him to show deductions to which he is entitled and the amount of expenses incurred.

Initially, we note that Swartzentruber provided no evidence until trial, proved to be as uncooperative as Snyder during audit proceedings and thereby burdened this Court (and respondent) with matters which could have been considered by respondent and which might have been settled prior to trial. Moreover, such evidence was not introduced in such a manner as would easily enable this Court to determine which verified expenses related to personal items.[10]

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[7] Apart from Snyder's direct testimony and the two exhibits, the only other evidence offered was the testimony of Homer Mellott (who made only one purchase from Snyder in 1972) that Snyder gave him a forty percent discount from the price sheet of the company from whom Snyder purchased (presumably, this price sheet was the manufacturer's suggested price). Mellott and Snyder both then testified that Snyder purchased items from the company at a 42 percent discount from the list price thereby making only two percent on items sold. Initially, we note that the amount paid by Mellott is not in issue for Snyder's income was based upon deposits. Thus, Snyder is apparently contesting the amount of business expenses allowed by respondent. Mellott's testimony of what Snyder paid for goods has little weight and no evidence was introduced (receipts from the company, etc.) to support it.

[8] The most detailed exposition of Snyder's calculation of his taxable income found in the transcript is where he states that he had income of

[e]ighty-six thousand two hundred and sixty-two twenty-three. Expenses of sixty-seven thousand nine hundred and fifty fifteen and inventory brought over from the past year of eight thousand eight hundred eighty-five seventy-one which left me nine thousand four hundred and twenty-six thirty seven and the depreciation on property and equipment was $5624.52, left me a balance of forty-eight one eighty-five.

An analysis of this simplified approach to the calculation of net income would appear to be as follows: Snyder takes a gross income figure of $86,262.23 ($220.75 more than respondent determined) and subtracts from it expenses (unsubstantiated) of $67,950.15, leaving $18,312.08. From this he subtracts $8,885.71 for "inventory" leaving a balance of $9,426.37. Finally, he subtracts "depreciation" of $5,624.52 leaving his balance of $4,801.85. At the outset, it must be pointed out that Snyder's own calculations are erroneous and the subtraction, in fact, results in $3,801.85. Moreover, there is nowhere stated his ending inventory, necessary in any computation of cost of goods sold (which he is apparently trying to ascertain). The $5,624.52 depreciation claimed was calculated from one of the two exhibits Snyder introduced into evidence. We already noted that the exhibits were of doubtful value and Snyder's confused testimony as to how the depreciation schedule was arrived at (which indicated, apparently, that many items on the list should not have been depreciated in 1972 because they were junked earlier) rendered the exhibit totally useless and insufficient to support his claim for depreciation.

[9] Swartzentruber denies that he never filed an income tax return for 1971 and asserts that he has a return receipt from the Internal Revenue Service to support his claim. Respondent introduced into the record a certification of lack of record filed February 3, 1977, signed by the District Director stating that he had legal custody of Federal tax forms filed in the office with which Swartzentruber claimed he filed, and that no income tax form for 1971 allegedly filed by Swartzentruber could be found. Swartzentruber introduced a receipt which indicated that some piece of mail was received by the Internal Revenue Service, although it does not indicate a return was filed. Based upon this evidence, in our findings of fact, we found that no return was filed. For this reason we must sustain the section 6651(a) penalty for failing to file a return for 1971.

[10] Swartzentruber apparently relies on the Fifth Amendment to support his refusal to come forward with certain evidence which could rebut respondent's determination but which he says

We do not believe on the evidence before us that Swartzentruber is entitled to any depreciation on his truck or a casualty loss due to the accident. The truck was purchased in dilapidated condition, and although Swartzentruber testified that he had "roughly $2,800 in it" he introduced no evidence that he spent any amount on refurbishing the truck. We find further support for this holding in view of Swartzentruber's ability to provide substantiation for certain minor repairs (deductible under section 162); if he saved receipts for minor repairs and often paid for them by check, we find it incredible that he would not have receipts (or cancelled checks) for $2,800 of major restoration expenses.

Swartzentruber did provide substantiation [illegible]f certain expenditures relating to automo[illegible] supplies, etc." Our problem here is in [illegible]mining which of these expenses rela[illegible] to Swartzentruber's truck (used exclusively in his business) and which related to his car (nonbusiness use). Based upon this evidence and Swartzentruber's testimony, we find that he is entitled to deduct as business expenses the following expenditures:

1971

Check to Davis for jack for his truck	$ 25.39
Expense paid to Craig Motors	137.52
Check to Kights Insurance for liability insurance on the truck	187.75
Check to D. M. V. for tags for truck	130.00
Somerset Welding	17.60
Cecil Jackson Equipment	3.94
Shaffer Ford	9.99
60 percent of payments to Ringer Independent Oil Co. (609.64)[12] for gasoline	365.78
Total	$877.97

1972

Check to D. M. V. for tags	$130.00
Check to Kights Insurance	164.24
Shaffer Ford	57.69
Craig Motors	8.61
60 percent of payments to Ringer Independent Oil Co. made prior to Sept. 6 ($378.75)	227.25
Total	$587.79

Swartzentruber also contends that he is exempt from self-employment tax under section 1402(h)[13] and previously filed an application for exemption. However, no evidence or testimony was adduced in the

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might also incriminate him. It is well established that a taxpayer may not withhold information from an agent conducting a tax investigation on these grounds and then use the refusal to place the burden of proof on respondent. *Durovic v. Commissioner* [Dec. 30,201], 54 T. C. 1364 (1970), affd. in part and revd. in part on other grounds [73-2 USTC ¶ 9728] 487 F. 2d 36 (7th Cir. 1973), cert. denied 417 U. S. 919 (1974). Moreover, it has long been held that the self-incrimination clause of the Fifth Amendment is not available to a petitioner in a civil case in this Court. *Brod v. Commissioner* [Dec. 33,657], 65 T. C. 948 (1976). *Romanelli v. Commissioner* [Dec. 30,226], 54 T. C. 1448 (1970), revd. [72-2 USTC ¶ 9708] 466 F. 2d 872 (7th Cir. 1972). *Harper v. Commissioner* [Dec. 30,129], 54 T. C. 1121 (1970).

[11] 1971

Checks to	Amount
J. M. Davis	$ 25.39
D. M. V. for license	130.00
Craig Motors	112.58
Kights Insurance, Inc.	187.75
Invoices	
Somerset Welding	17.60
Cecil Jackson Equipment	3.94
Hemminger Auto & Truck Parts	30.00
Shafter Ford	9.99
Oakland Auto Parts (total of 2)	4.99
Hawkinson Tread Service, Div.	78.96
Craig Motor (total of 2)	24.94
Ringer Independent Oil Co. (total of 8)	609.64
Total claimed	$1,235.78

1972

Checks to:	
D. M. V. for license	$ 130.00
Kights Insurance, Inc.	164.24
Invoices:	
Shaffer Ford (total of 7)	57.69
Craig Motor (total of 3)	8.61
Oakland Auto Parts	3.59
Ringer Independent Oil Co.	
(purchases prior to Sept. 6)	378.75
(purchases after and including Sept. 6)	161.50
Total claimed	$ 904.38

[12] We do not believe the entire amount of gas purchased (in units of 250 gallons which were apparently stored on his farm) was used in Swartzentruber's business; we think that some of the gas was used for personal purposes and for this reason believe a reasonable estimate of the gas used in his business was 60 percent of that purchased. *Cohan v. Commissioner* [2 USTC ¶ 489], 39 F. 2d 540 (2d Cir. 1930). We are fortified in this finding by the fact that Swartzentruber purchased 250 gallons on Sept. 6, 1972, and 250 gallons on November 16, 1972, yet his truck was destroyed on Sept. 15, 1972, and apparently not replaced during the year. For this reason, we have disallowed any payments for gasoline made on or after Sept. 6, 1972.

[13] Redesignated as section 1402(g) for taxable years beginning after Dec. 31, 1976. P. L. 94-455, section 1901(a)(155)(B).

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Attachment 17

9/16/76	wc	Searched CH records - results enclosed in file. Photocopy of Trust Agreement whereby T/P transferred property (real) to Trust.
9/20/76	wc	
9/20/76	wc	
9/24/76	wc	DMV ck back - It appears that T/P is CoOwner on 3 vehicles: w/ on a 69 Corsair Trailer #34246, and a 73 Dodge 4 Dr. Sedan CKE 348; w/ on a 72 Ply 4 Dr Sedan DLW 527. None of above
10/5/76	wc	

Form MAR-828 (Rev. 9-74)

11/16/76

Department of the Treasury—Internal Revenue Service

Date	Revenue Officer	Contacts
10/6/77	uc	Talked to Justice Dept. - Said that Gov't won case and injunction Dismissed - However, take no Action till after 11-4 because T/P has 30 days to file an appeal. I to Ph SPS after 11-4-77 to see if appeal has been filed.
11/7/77	uc	Phoned SPS - Appeal has been filed by T/P - Injunction still in effect - take no action in TDA's till further notice.
1/10/78	uc	GM Talked to chief SPS who advises taking Coll Action ONLY if T/P disposing of assets or putting them out of reach of IRS.
1/13/78	uc	
2/13/78	uc	
4/ /78	uc	looked at some court records to see if T/P disposing of any assets - noticed that the Family Trust (Hallie M., Trustee) had transfered title to two pieces of property to Winston Arden Green & Bertha Green his wife. ① .4 acre on S. Side of Monte Vista Rd. valued 820.00 ② 1.74 Acres on S. Side of Monte Vista Rd - valued 2,190.00 Both properties assessed on land only - No Buildings. Both deeds dated 9-7-77 & recorded 9-26-77.

ATTACHMENT 18

2.21.80 continued)

3. coins — same as contents of house, Snyder possessed them and they belonged to him.

4. 1979 Chevrolet truck. Truck was at Snyders place. It is titled to mother who was not there. Snyder is true owner - he paid for it & possesses it.

5. John Deere tractor. Seized from property of neighbor, who gave oral permission to enter. Tractor has been observed as being in Snyders shop. Ralph Lichty, from whose property tractor was seized, stated he (Lichty) did not own the tractor. Snyder later showed me a bill of sale for the tractor and it was bought in the name of the trust. There is no doubt it is Snyders & he is using the trust as a shield to hide assets.

6. safe deposit box - Mrs. Hallye Snyder said there was a safe deposit box in Barnett National Bank. It was seized by G.M. Handley & BO Glaccum. It is titled to D. Dwight & Ruth Snyder.

Attachment 19

REPORT TRANSMITTAL

TOTAL HOURS
24

NAME AND ADDRESS OF TAXPAYER
J. Dwight Snyder
Rt 2 Box 113
Oakland, Md 21550

RELATED CASES OR KEY CASE

RETURN FORM NO. 1040	YEARS ~~OR PERIODS~~ 7112
RETURN FORM NO.	YEARS OR PERIODS

AGREEMENT
☐ FULL ☐ PARTIAL ☒ NONE

OTHER INFORMATION (Unagreed issues and important information not covered in workpapers or report)

The examination of the taxpayer was initiated by the Intelligence Division who requested a cooperating Revenue Agent. I was assigned to the case on Aug. 10, 1973. Until he retired on June 30, 1974 Mr Glen Henderson was the special agent. Andrew Rutkowski was then assigned to the case and is currently reviewing the taxpayer's bank records and conducting a letter canvass in an attempt to determine the taxpayer's income.

Special Agent Henderson's first contact with Mr Snyder occurred when he visited his place of business seeking information about a delinquent taxpayer believed to be an employee of Mr. Snyder. Mr. Snyder made an appointment to meet Mr Henderson the following day and suggested the delinquent taxpayer may be present.

I was scheduled to meet Special Agent Henderson in Oakland, Md. the day of the appointment and he asked me to accompany him as a witness. The delinquent taxpayer, Mr Snyder and the party we were to contact were believed to be members of a loosely knit group of tax protestors. (See the memorandum of the interview at Mr Snyder's place of business, Workpapers pages 3-4.)

At this point Special Agent Henderson initiated an examination of Mr. Snyder. The taxpayer's records from two Oakland, Md. banks and from the Terra Alta Bank of Terra Alta, W. Va were summoned. Mr Snyder became a party with several ~~other~~ taxpayers enjoining the banks from giving the Service any records. The government replied to the restraining order and it was dropped from the docket. The two Oakland, Md. banks made and/or are making the summoned records available. It was necessary for the government to get a Court Order before the Terra Alta bank agreed to turn over records.

I have encountered, Mr. Snyder at my audit of three taxpayers who attempted to make verbatim tape recordings of the interviews. Although

EXAMINING OFFICER	DATE	APPROVED BY (Signature of reviewer)
Thomas P. Gden	2-20-75	LH

COMPUTATIONS VERIFIED AKR

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE FORM 4665 (8-70)

FORM 886-A
(REV. APRIL 1968)

EXPLANATION OF ITEMS

SCHEDULE NO. OR EXHIBIT

NAME OF TAXPAYER
Snyder, Dwight

YEAR/PERIOD ENDED
7112

Mr Snyder and the others who were at these interviews remained somewhat silent the comments made left a definite impression that Mr Snyder was a strong influential leader for those who listened to what the protestors advocate.

The followers of this protest movement have taken three positions in regard to the filing of Federal tax returns. The first position, which Mr. Snyder did in 1971, was not to file a return. The second position was to offer vocal agreement to the tax protest movement while actually filing a complete return. The third position was to file page one of the return and making a notation "See Petition and Protest consisting of 12 pages attached hereto; also 7 pages of sworn testimony of Roland P. Graham, Vice-President and General Counsel of the Federal Reserve Bank of Minneapolis and the Daily Eagle of Feb. 7 1969, attached hereto, 104 pages" The gist of the attachment points to the unconstitutionality of both the income tax law and the monetary system of the United States.

Mr Snyder's failure to file a tax return for 1971 was not because he believed the government failed to comply with the law and that we are on a false money standard, but, rather, he was using this as a guise to avoid his having to pay his tax liability. I strongly believe this to be the case because an individual or group with a strong conviction of a wrong or injustice presents an alternate means to replace what they don't believe. Mr.

FORM 886-A (REV. APRIL 1968)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT
NAME OF TAXPAYER Snyder Dwight		YEAR/~~PERIOD~~ ENDED 7112

Snyder does not have alternate methods or theories to replace what they say must be changed.

Former Internal Revenue Agent Dale Carpenter, now a businessman in Garrett County, Md. has frequently commented that Mr Snyder was the most outspoken advocate of non-compliance with the Federal income tax law. Mr Carpenter stated many individuals are aware of the position taken by the tax protestors with some lending vocal encouragement and others stating they are taking a 'wait and see' attitude. By that they are saying lets see what the government will do to Mr Snyder and his followers before we proceed along those lines.

Jerome Moyer, chief of tax assessors for Garrett County, Md., stated on several occasions that Mr Snyder has created a lot of unrest among taxpayers because he openly acknowledges the fact he does not pay taxes and the government has not done anything about it. The protestors also refuse to pay real estate taxes.

Mr. Carpenter and Mr Moyer are in contact with the majority of people in Garrett County, Md. Mr. Moyer as the chief tax assessor and Mr Carpenter through his automobile dealership, lake front rental properties and past president of the Jaycees and Lions club. Both these men have stated that Mr Snyder and his followers are frequently the subject of conversation.

FORM 886-A (REV APRIL 1968)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT
NAME OF TAXPAYER Snyder, Dwight		YEAR/~~PERIOD~~ ENDED 7112

The Taxpayer has been the subject of an investigation by Intelligence Division since June of 1973. They were delayed in their investigation by the Taxpayer securing a restraining order. The Intelligence Division has ledger sheets from the Garrett National Bank of Oakland, Md. showing $\$65,093^{47}$ in deposits to his 'business' checking account and $\$2165^{42}$ in what is referred to as his 'personal' or 'butcher' account for deposits totalling $\$67,259^{29}$.

Mr. Snyder's cabinet making business is primarily the making of formica tops. Prior to this business Mr. Snyder had a butcher shop located on the same premises as he now operates the cabinet making shop. Mr Snyder still maintains locker space which he rents to customers for storage of frozen meats, etc. Intelligence Division has information the taxpayer owns four rental properties which house one or two families in each. All known sources of income to the taxpayer are from taxable sources.

The taxpayer is uncooperative with Intelligence or audit and has attempted to stifle the investigation by bringing suit restraining the banks from giving us records and encouraging others not to corporate with us. The income tax liability is being determined by using the total deposits as adjusted gross income while allowing the standard deduction of $\$750^{00}$ for a married individual filing separately. Three exemptions are allowed the taxpayer, his wife and daughter (based on information)

FORM 886-A (REV. APRIL 1968)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT
NAME OF TAXPAYER Snyder Dwight		YEAR/PERIOD ENDED 7112

from Intelligence Division and the 1970 return in arriving at taxable income.

Intelligence Division has copies of the taxpayer's cancelled checks. We recognize the fact the taxpayer did have expenditures in generating income but for us to say what is actually a legal business expense is nothing more than a calculated guess. Likewise, to say the deposits are the taxpayers only receipts while allowing checks written against these deposits to be business expenses would not be in the best interest of the government. In view of the fact the Taxpayer failed to file a return, to cooperative in the investigation, lived in high style (Taxpayer owns two airplanes) Federal income and self-employment tax are being asserted on the known deposits.

Section 6653(b) of the 1954 IRC provides that, if any part of the underpayment of tax required to be shown on the return is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment. Since the Taxpayer did not file a return "on or before the last day prescribed for filing of such return" and the entire tax due was an underpayment within the meaning of Section 6653(b) of the 1954 IRC. The only question then is whether any part of the underpayment was due to fraud.

Mr. Snyder by his actions had adequate knowledge of the Federal tax laws and requirements to file

GPO : 1971 O - 100-130

FORM 886-A (REV APRIL 1968)	EXPLANATION OF ITEMS	SCHEDULE NO. OR EXHIBIT
NAME OF TAXPAYER Snyder, Dwight		YEAR/~~PERIOD~~ ENDED 7112

Our records indicate the taxpayer did not file a 1971 tax return, that he is one of the strong leaders of a tax protest group, that he attempts to persuade others not to comply and he is uncooperative. It is concluded that the taxpayer's failure to file a return for the year 1971 was fraudulent and in deliberate defiance of the law. He received substantial income as evidenced by the deposits and he knew that he had to pay tax on this income since he had filed returns for previous years. His failure to file returns can only be interpreted as an attempt to conceal this income from the Internal Revenue and his other actions plainly indicate a plan on his part to evade tax. The fact the Taxpayer uses the 'tax protest approach' for his failure to file a return does not mitigate the fraud.

The audit is being cutoff at the end of the 1971 year because of the possibility of the expiration of the statute of limitations for 1971. Our records showing the Taxpayer did not file a return for 1971 may be in error, or the Taxpayer may have filed in another region. Therefore, it is recommended a Statutory Notice of Deficiency be issued.

On December 26, 1974 the Intelligence Division stated they had no objection to our soliciting a consent. The consent was solicited on Jan 9, 1975 by mail and it has not been returned. On Jan 23 1975

FORM 886-A
(REV APRIL 1968)

EXPLANATION OF ITEMS

~~SCHEDULE NO. OR EXHIBIT~~

NAME OF TAXPAYER	YEAR/PERIOD ENDED
Snyder Dwight	7112

Intelligence Division was apprised we were unsuccessful in securing a consent. On [illegible], 1975 Intelligence Division replied they had no objection to the issuance of a Statutory Notice of Deficiency, however before such a notice is issued they would like to see a copy of the Statutory Notice.

Attachment 20

ACTS:C-145

ASSAULT OR THREAT OF ASSAULT REPORT

TO
Regional Inspector

FROM
NAME: Robert L. Jennings
TITLE: Revenue Officer
DISTRICT: Baltimore
POD: Cumberland
DATE: 08-24-76
EMPLOYEE OR FAMILY MEMBER INVOLVED *(If other than initiator)*: –

Part A

NATURE OF INCIDENT

1. ☒ CASE RELATED ☐ OTHER
2. ☐ ASSAULT ☒ THREAT ☒ OTHER *(Specify)* or Warning

Complete This Section If Incident Was Case Related

3. NAME OF TAXPAYER: J. Dwight Snyder
4. TYPE OF ASSIGNMENT *(TDA, TDI, OI, etc.)* and Type of tax *(941, 1040, etc.)*: TDA 1040
5. TAXPAYER'S OCCUPATION: Self-employed cabinetmaker
6. BALANCE DUE *(If TDA)*: $48,679.71 plus accruals
7. TAXPAYER'S HOME ADDRESS:
Rt 2, Box 113
Oakland, Md. 21550
8. TAXPAYER'S BUSINESS ADDRESS: Same as home address.

Part B

DESCRIPTION OF INCIDENT

9. NAME OF INSTIGATOR(S) OF INCIDENT: J. Dwight Snyder
10. PHYSICAL DESCRIPTION OF INSTIGATOR(S): Male, caucasian, approximately 45-50 years of age, approximately 5'11" height, approximately 190-210 lbs., goutee.
11. PLACE: Rt 2, Box 113, Oakland, Md.
12. TIME: Approx. 12:30 P.M.
13. DATE: 07-29-76
14. WITNESSES: NAME: – ADDRESS:
NAME: – ADDRESS:
15. WAS WEAPON DISPLAYED OR USED? ☐ YES ☒ NO *(If yes, what kind?)*
16. WERE INJURIES SUSTAINED BY IRS PERSONNEL? ☐ YES ☒ NO *(If yes, explain in item 18.)*
17. DID INCIDENT OCCUR IN A HIGH ASSAULT RISK AREA AS DEFINED BY LOCAL MANAGEMENT? ☐ YES ☒ NO
18. DESCRIBE INCIDENT *(Continue on reverse, if necessary)*

Background: T/P is a "ringleader" in the "tax protestor" movement in the western Maryland area. He holds that the U.S. tax system violates individuals' rights and is in a number of ways "unconstitutional." T/P's present tax liability is an "unagreed" assessment which was established by Audit Division after T/P refused to permit examination of his books and records. T/P lives in a rural area.

Incident: I made an initial-contact field visit to T/P's residence on Thursday, 07-29-76 seeking payment of T/P's 1971 Income Tax liability. During the course of a rather lengthy interview, Mr. Snyder stated: "If anyone tries to seize my property, there WILL BE TROUBLE." He said there are already several posses in the area and asked if I knew the meanings of "posse cumatatis" or "people's grand jury;" He advised me to "find out" what they mean. Two other men were present during much of the interview, one of whom parked behind my car, blocking me in; he moved his vehicle to let me out without incident when I was ready to leave, remarking only on how corrupt IRS is and suggesting that I get out of it and get a good job.

Subsequent contact: I phoned T/P on Monday, 08-23-76, to respond to an issue which he he raised during the initial interview and to which I agreed at that time to respond within 30 days. When he asked what my next action would be and I explained that we would take necessary steps to enforce collection, he stated "If you take any 'illegal' seizure action, I'll take whatever steps I need to - but you won't know what steps I'll be taking." END.

Official Use Only No enforcement personnel involved.

Form **4652** (Page 1) (Rev. 6-74)

Department of the Treasury - Internal Revenue Service

Attachment 21

TDA History Sheet

Taxpayer's Name: J. Dwight Snyder

EI Number: —

SS Number: 220-30-8543

Employer: Self-employed

Bank: Terra alta Bk. Terra alta, W.V. (?)

Telephone Number: 334-2662

Reason for Liability: audit Deficiency adjustment.

Corrective Action Taken: N/A.

Filing Status *(Indicate compliance. Check all returns considered)*

☐ 941 SEE
☐ 940 COMPLIANCE ~~SHEET~~
☐ FTD's
☐ 1040
☐ 1120
☐ Other

Record Checked	Telephone Directory	City Directory	Postal Records	Courthouse Records	Office Records	Soc. Sec.-Administration	Bank	Other
Date →	—	—	—	07-29-76	—	—		

Date	Revenue Officer	Contacts
07-28-76	RLJ	A Received TDA 1040 7112.
		✓ Lien Det. Date: 09-27-76.
		A checked phone directory for T/P number. may be | Snyder's Cabinets Boetner 334-2662
		✓ Secure IDRS TXSUMRY, etc ...
07-29-76	RLJ	A made F/V to P.O. T/P lives about 4 miles south of Oakland on Rt. 219 – sign says "Snyder's Cabinets".
	CtHouse	A made F/V to CH. no property shown in T/P's name. (Just cursory check; need to recheck in depth).
		A made F/V to T/P address. Requested payment of T/L T/P stated not legal assessment because didn't receive notice proposing assessment as provided in IRC 6212(a) and therefore was denied appeal Rights, Court Trial, etc. T/P said the first notification he had of The liability was letter saying he was previously notified of change to tax account and of appeal rights. Basic issue is Didn't have Appeal Rights. I agreed to try to ascertain status of

Form MAR-828 (Rev. 9/74) Dispose of all prior issues

(Over)

Department of the Treasury—Internal Revenue Service

Date	Revenue Officer	Contacts
		the notice proposing assessment and to contact him within 30 days to let him know status of my inquiry.
		TTP refused to give F/S saying that would violate his rights under 4th + 5th Amendments to Constitution. Said if anyone tries to seize my property there WILL BE TROUBLE! Said there are already several posses ("posse cumitatis") – a "Peoples Grand Jury."
		TTP was accompanied thru interview by one man, who at a point during the interview went and got another man – the latter of whom parked behind my car, blocking me in. He had some comments during interview with TTP about how corrupt IRS is and said "why don't you get out of it and get a good job" – he moved his vehicle to let me out when I was ready to leave.
		TTP stated he used to be a strict obeyer of tax laws, etc but IRS set up a wrongful additional assessment for meat taken out of business for family use. He said he had wrung up a sale each time he took meat for family, thus reporting it as income, so IRS wrongfully set up addit. tax.
		Said another time IRS made him pay self social security tax on an exempt employee... wrongfully.
		Per TTP, outline of correspondence on case:
		(1) Filed 1040 711 timely, showing no figures and pleading 5th Amendment – said he "wished to give no info because when you did you were taken advantage of..."
		(2) Letter from IRS dated 09-05-75 – "Return not acceptable as filed..."

Attachment 22

Date	Revenue Officer	Contacts
8/25/77	UC	RO Gordon Norinsky & I went to private field off Blue Ribbon Rd, off Rt 219 South of Oakland. I stopped at a house adjacent to field and asked a man, who identified himself as the owner of the private field, after identifying myself showing my credentials, and telling him I was conducting a RCP on Aircraft owners, if we could look
8/25/77	Cont	at the aircraft parked there, not intending to even touch the aircraft. He stated that he guessed it would be all right. We proceeded to the area of the parked aircraft and started to write down in a notebook the identifying numbers of the planes and the type of aircraft. After securing 3 or 4 numbers a man, thought to be Mr Snyder, accompanied by a younger male, drove up very fast, parked behind my vehicle blocking it in, and asked us what we were doing there on private property. I identified myself & showed informed him showed my credentials, and that we had the permission of the owner to be there and what we were doing, but he did not want to hear it. He stated for us to get out. ~~I identified myself, showed my credentials and informed him what we were doing there~~. He wanted to know what I was writing in the notebook. I showed it to him. He took the notebook from my hand and tore the page out, and again said in no uncertain terms that we had better get out of there, if we knew what was good for us. - We left -

TDA History Sheet

Taxpayer's Name		EI Number
		SS Number
Employer	Bank	Telephone Number
Reason for Liability		
Corrective Action Taken		

Filing Status *(Indicate compliance. Check all returns considered)*	☐ 941	☐ 1040
	☐ 940	☐ 1120
	☐ FTD's	☐ Other

Record Checked	Telephone Directory	City Directory	Postal Records	Courthouse Records	Office Records	Soc. Sec. Administration	Bank	Other
Date →								

Date	Revenue Officer	Contacts
	Cont.	Upon return to Cumberland ofc, the incident was reported via phone to Inspector Hoffman of the Pittsburgh office, who requested copy of 4652
	Cont.	Upon return to Cumberland ofc, the incident was reported via phone to Inspector Hoffman of the Pittsburgh office, who requested copy of 4652
8/26/77	UC	Form 4652 prepared & submitted to GM.
8/26/77	ac	Phoned Insp. Hoffman + informed him that GM directed All copies to his office.
8/30/77	ac	Insp. Joe Hoffman 722-2661 Pgh wanted to know if I would be available to accompany them to the airport 9-1 (OK) We are to meet at St. Police barracks in McHenry @ 11:30 AM, on 9-1-77
9/1/77	UC	Met Insp. Hawk, Hoffman + Hartzell. proceeded to airfield and got needed info and departed without incident. On way back, stopped at Oak Mar Motel + Restaurant for lunch - time 12:50 P.M.

Date	Revenue Officer	Contacts
Cont.		As we started to leave, after paying the bill, an unknown man asked if we were IRS people. Somebody must have said yes. The man asked us to wait for the Sheriff's office, which had been called. The man would not identify himself or the ~~of~~ reason that the Sheriff's ofc had been called. After they (turned out to be Mr Wm Ashty & another male) made several phone calls from booth there, Mr Snyder pulled up w/ another male (unknown) None of them would identify themselves - they wanted to know WHO we were and to see identification. The inspectors made some phone calls of their own - Soon the Co Investigator - from the States Atty Ofc pulled up - City police chief pulled up. Inspectors & I talked to Chief & Co Invest - told them what was up and that we had proper authority for all actions taken. It turns out "Snyder" wanted us arrested for trespassing at the airport. Before we left Mr Snyder wrote down our names and Crenditial numbers in his notebook.

United States of America ________ ss
________, District of ________

Attachment 24

I, JOSEPH F. REINBOLD, state that:

I reside at 7203 Caulking Place, Burke, Virginia. I am currently employed as Chief, Investigations Branch, Internal Security Division, 1111 Constitution Avenue, N.W., Washington, D.C. I have been requested by Inspector PETRONCHAK to prepare this affidavit pertaining to my recollection of a telephone call which occurred on August 31, 1977, at which time I was a Group Manager with Internal Security, Post-of-Duty Philadelphia, Pennsylvania. At that time (August 1977) I supervised a group of Inspectors in Philadelphia and also Inspectors JOSEPH J. HOFFMAN, ROBERT L. HAWK and GLENN M. HARTZELL, who worked in our Pittsburgh Office.

During the latter part of August 1977, an investigation was initiaTed involving J. DWIGHT SNYDER, Oakland, Maryland, pertaining to a threat made by SNYDER and interference with the official duties of a Revenue Officer from Cumberland, Maryland.

On August 31, 1977, the Inspectors from the Pittsburgh Office were assigned to escort the Revenue Officer for protective purposes to Oakland, Maryland in order to complete certain collection actions without further interference. As I recall, the Revenue Officer completed his duties and both he and the three Inspectors went to lunch at a restaurant ~~[illegible]~~ in Oakland. After lunch, the Revenue Officer and Inspectors encountered several individuals, including SNYDER, in the parking lot.

Inspector HOFFMAN placed a telephone call from a pay telephone in the parking lot to me and related that SNYDER and a number of other unidentified individuals had confronted them in the lot and were in fact restricting the Inspectors and Revenue Officers' movement. HOFFMAN related that these individuals had called the local police and stated that they were filing charges of trespass. I advised HOFFMAN that he should wait for the local and/or county police and notify me of the results of that contact.

I waited approximately forty-five minutes for HOFFMAN to return his call. Since I did not receive a call back, I called the number furnished. An unidentified female answered and I requested to speak to Inspector HOFFMAN. Several minutes later, an unidentified male picked up the telephone and stated "this is Inspector HOFFMAN." After advising the individual that I knew he was not HOFFMAN, he still persisted in stating that he was HOFFMAN. I subsequently advised him that I was HOFFMAN's supervisor and that I wanted to speak to any one of the Inspectors present. He then stated that "if you want to talk to Inspector HOFFMAN, you better check the morgue," and then hung up. I do not know the identity of the individual.

I have read the foregoing statement consisting of 2 pages, each of which I have signed. I fully understand this statement and it is true, accurate and complete to the best of my knowledge and belief. I made the corrections shown and placed my initials opposite each.

I made this statement freely and voluntarily without any threats or rewards, or promises of reward having been made to me in return for it.

(Signature of affiant)

Subscribed and sworn to before me this 11th
day of June, 1980.
at Washington, D.C.

(Signature)

Inspector, IRS Inspection
(Title)

Internal Revenue Service

7D1
M.R.F., 6100
1:15
2 of 2

(Signature of witness, if any)

Department of the Treasury - Internal Revenue Service

Form 2311 (Rev. 9-78)

Attachment 25

1:15 Mr Crow
1 of 3
FROM: ARC(ES)
MAR

Inspection Report Sheet

On August 31, 1977, Inspectors Joseph J. Hoffman, Robert L. Hawk and Glenn M. Hartzell met with WAYNE E. CUNNINGHAM, Revenue Officer, Cumberland, Maryland Post-of-Duty, at the Maryland State Police Sub-Station, McHenry Maryland. CUNNINGHAM was then accompanied by the above Inspectors to a private airfield on Blue Ribbon Road, Oakland, Maryland. Gerrett County, Maryland records indicate that this airfield is owned by RALPH LICHTY, Blue Ribbon Road, Oakland, Maryland.

Upon arriving at the airfield, Inspector Hoffman and Revenue Officer CUNNINGHAM attempted to locate LICHTY at LICHTY's residence adjacent to the airfield. CUNNINGHAM's procedure was to contact LICHTY, ask permission to enter the airfield, and complete a Returns Compliance Program investigation, regarding Aircraft Use Tax of airplanes housed at the airfield.

LICHTY was not located at his residence, but contact was made with an unidentified white male, 75 years old, five feet, five inches, who was cutting the grass at LICHTY's residence. CUNNINGHAM and Hoffman identified themselves to this individual with their credentials. This individual stated that LICHTY was not at home and that the individual did not have the power to deny entry to the airfield. CUNNINGHAM and Hoffman, Hawk and Hartzell then made entry to the airfield with CUNNINGHAM securing the identifying numbers of each aircraft. CUNNINGHAM and the Inspectors then left the airfield without incident.

CUNNINGHAM and the Inspectors then stopped for lunch at the OAK MAR MOTEL and RESTAURANT, Route 219, Oakland, Maryland. When CUNNINGHAM, Hoffman, Hawk and Hartzell were leaving the restaurant, an unidentified white male, five feet eight inches, 145 pounds, wearing glasses, asked "are you with the IRS." When this individual was asked to identify himself, he stated that he would not identify himself. This individual

Case Title SNYDER, J. DWIGHT	Case Number 2-0977-0001
Investigation of Pittsburgh, Pennsylvania	Inspector Making Report Joseph J. Hoffman

Inspector
Cross Index Required ☑
Not Required ☐
Completed ☑
9/13/77
(CONTINUED)
Control Clerk
10/15/77

Inspection Report Sheet

10

MR. CLOW

1115 3 of 3

A telephone call was placed from a pay phone in the parking lot of the OAK MAR MOTEL to Group Supervisor Joseph F. Reinbold, Internal Security Division, Philadelphia, Pennsylvania. Reinbold was apprised of the situation and was given details of the incident. Oakland, Maryland, Chief of Police ROBERT SHILLINGBURG and Garrett County Investigator WILLIAM FERRIE arrived at the OAK MAR MOTEL parking lot. Inspector Hoffman identified himself, Inspectors Hawk and Hartzell and Revenue Officer CUNNINGHAM to SHILLINGBURG and FERRIE. SHILLINGBURG stated that a Sheriff's Deputy was not available at the present time. SHILLINGBURG stated that he had no questions to ask the Inspectors and CUNNINGHAM. Hoffman, Hawk, Hartzell and CUNNINGHAM then left the parking lot. CUNNINGHAM was escorted to Grantsville, Maryland at CUNNINGHAM's request.

SNYDER, J. DWIGHT
2-0977-0001

Attachment 26

2.21.80 Met state police & vendors at 7 AM in Cumberland. Present were Br. Chief Collinson, G.M. Handler, & RO's Sparks, Lewis, Diegle, Slaccum, Douglas, & Rider. Met Marshalls & Special agents and proceeded to Snyders. I first went to residence and when finished there went to shop. In all six seizures were made:

1. personal property from house
2. personal property from shop
3. 1979 Chevrolet pickup truck
4. One John Deere tractor with accessories
5. One safe deposit box
6. Coins: 100 - ½ dollar pieces (from house).

All property seized belongs to James Dwight and/or Hallie M. Snyder.

1. ~~[illegible]~~ personal property house - Snyder possessed the property in house and was the true owner.
2. property from the shop - Snyder possessed the assets in the shop and used them for his business - Snyders Cabinets. Also, on display in the shop was a poster regarding entry to property by law enforcement agents, including Internal Revenue Agents. The poster stated the undersigned was the true owner of the premises and the poster was signed by J. Dwight Snyder. There was no reference in any way to a trust.
3. Coins - same as contents of house, Snyder possessed them and they belonged to him.
4. 1979 chevrolet truck. Truck was at Snyders place. It is titled to mother who was not there. Snyder is true owner - he paid for it & possesses it.

5. John Deere tractor. Seized from property of neighbor, who gave oral permission to enter. Tractor has been observed as being in Snyders shop. Ralph Lichty, from whose property tractor was seized, stated he (Lichty) did not own the tractor. Snyder later showed me a bill of sale for the tractor and it was bought in the name of the trust. There is no doubt it is Snyders & he is using the trust [illegible] as a shield to hide assets:

6. Safe deposit box – Mrs. Hallye Snyder said there was a safe deposit box in Bancroft National Bank. It was seized by G.M. Handly & RO Glaccum. It is titled to D. Dwight & Ruth Snyder. [illegible]

The seizure began about 9:00 AM. and we were there until about 4 or 5 pm. Because of the display of force by the govt. we maintained control of the situation. Several of Snyder weapons were taken under control by the marshalls & later returned to Snyder by the marshalls. A crowd did gather at the roadside but order was kept by the marshalls & state police. The van was filled with assets and the seizure was over late in afternoon. Snyder ~~was~~ was asked about voluntary full payment but made no committment. During the course of the day a lot happened and due to such a large amount of activity it is impossible to record everything.

See histories of other RO's attached.

When I entered the house Mr Snyder was in shop & Mrs Snyder was in house. I showed levy (668B) & order & demand and told her figure due. She could not pay so I gave her levy & order and commenced seizure.

Attachment 27

Internal Revenue Service

memorandum

supplemental to 2-21-80 history

date: 2-22-80

to: John Sparks
Revenue Officer

from: William M. Diegel
Revenue Officer

---

subject: Seizure Actions
Re: J. Dwight Snyder

At approximately 9:15AM, after other Revenue Officers had served the taxpayer with the proper writ and given him a copy of Form 668-B, William Glaccum and myself seized a 1979 Chevrolet pickup truck, Tag number N-76346, and completed the necessary forms and William Glaccum located Mr. Snyder and gave him part 1 of Form 2433 indicating the truck had been seized.

After the above actions were complete; William Glaccum, Special Agent Don Temple, two U.S. Marshalls, and myself proceeded to the nearby farm of Ralph Lichty where we served him with a writ for the purpose of seizing a Winnebago vehicle. We were unable to locate the vehicle. Mr. Lichty approached us as we were leaving his farm and Special Agent Temple spoke to him concerning a John Deere garden tractor we had seen at the farm. Mr. Lichty stated that the tractor was not his but was evasive about the ownership of the tractor. The conversation with Mr. Lichty ended when Special Agent Temple said that he knew that the tractor belonged to Mr. Snyder and that it was our intention to seize the tractor. Mr. Lichty then said that it was okay if we did that (the seizure of the tractor). We then seized the tractor, completed the necessary forms, taged the tractor, and had it towed to Mr. Snyder's property where it was later loaded into the moving van for transportation to the storage facility.

Internal Revenue Service

memorandum

Supplemental for 2.21.80 history

date: 02-22-80

to: John Sparks
Revenue Officer

from: William J. Glaccum
Revenue Officer

---

subject: Seizure actions re: J. Dwight Snyder

At approximately 9:15 A.M., after other Revenue Officers had served the taxpayer with the proper writ and given him a copy of Form 668-B, Revenue Officer Diegel and myself seized a 1979 Chevrolet pickup truck, Tag #N-76346, completed the necessary forms, and gave Mr. Snyder Part 1 of Form 2433.

After the above actions were completed, Revenue Officer Diegel, Special Agent Don Temple, two U. S. Marshalls and myself proceeded to the nearby farm of Ralph Lichty where we served Mr. Lichty with a writ for the purpose of seizing a Winnebago vehicle. We were unable to locate the vehicle. Mr. Lichty approached us as we were leaving his farm and Special Agent Temple spoke to him concerning a John Deere garden tractor seen by us on Mr. Lichty's property. Mr. Lichty stated that the tractor was not his, but was evasive about who actually owned the tractor. The conversation with Mr. Lichty ended when Special Agent Temple said that he knew that the tractor belonged to Mr. Snyder and that it was our int3ntion to seize the tractor. Mr. Lichty then said that it was alright with him if we did that. We then seized the tractor, completed the necessary forms, tagged the tractor, and had it towed to Mr. Snyder's property where it was later loaded into the moving van for transporaation to the storage facility.

Sometime latǝr, I went with Gordon Handler, Group Manager, Special Agent Don Temple and two U.S. Marshals to Garrett National Bank, spoke with the bank president, determined that there was a safe deposit box in the name of Ruth Snyder and J. Dwight Snyder. At that point I presented the bank president with Form 2433 and 668A and seized the safe deposit box (#530). The bank president stated that he would not be willing at that point to open the safe deposit box, but that he would contact the bank's attorney and let us know whether or not he would be willing to open the safe deposit box without a coort order. We then sealed the door of the safe deposit box and left the bank.

Supplemental 2.21.80 history

INTERVIEW HISTORY SHEET

Taxpayer's Name: Dwight Snyder

EI Number:

Date	History
2/21/80	On This Date At Approximately 9:00 AM. Revenue Officer James Lewis And My Self (Phillip Douglas) Were Accompanied By Several U.S. Marshalls, IRS Inspecters And CID Special Agents. To Served A Writ of Entry on The Taxpayer Dwight Snyder At His Shop Located At Route 2, Box 113, Oakland, Maryland
	The Taxpayer Was In Shop At The Time of Our Arrival. The Above Revenue Officers Were Identified To The Taxpayer At Which Time A Request Was Made For Full Payment of The Tax Liability At Which Time Mr. Snyder Refused To Make Full Payment. At This Time Mr. Snyder Was Given A Copy of The 668B And A Copy of The Writ of Entry. The Taxpayer Was Advised At This Point That The Contents of The Shop Were Under Goverment Seizure. At This Point The Revenue Officers Tagged And Inventoried The Seized Property.

Request #2

2. Provide the Subcommittee with a detailed summary, with appropriate citations, of the policies, procedures and guidelines the Internal Revenue Service follows regarding the use of armed force and the arming of Service personnel.

I Use of Armed Escorts for Collection of Taxes

(A) In general, Internal Revenue Manual Section 5146 describes how revenue officers who are not authorized to carry firearms in performance of official duties, may request, through their group manager, that a special agent from Criminal Investigation be assigned as an armed escort. Policy Statement P-9-17 directs that "Armed escorts for Service personnel will be provided, when necessary, to prevent interference in the performance of official business."

(B) No specific set of guidelines can be laid out to describe the decision-making process in determining whether armed escorts are required or how many are required. The facts of a case are reviewed by the revenue officer and group manager. If they feel an armed escort is required, they contact Criminal Investigation and, if necessary, Inspection. Under certain circumstances (e.g., enforcement of Writs of Entry), the Department of Justice may be contacted. The Internal Revenue Service has no control over the determination of how many U.S. Marshals are to be used to enforce a Writ of Entry.

(C) IRM 926(12)(5) states that "special agents and revenue officers will, if time permits, have a planning meeting to discuss the facts bearing upon the request (for armed escorts)." It is the responsibility of participants in the planning session to analyze the situation and determine the appropriate roles and numbers of individuals who will take part in the armed escort.

II Use of Armed Force and the Arming of Special Agents

(A) IRM 9756.4 sets forth that permission to carry firearms will normally be at the discretion of the special agent's immediate supervisor and if the special agent is engaged in enforcement activities of such a nature that prudence indicates a need for them may arise. Special agents must be qualified with their weapon within the past six months. See Attachment 1.

(B) IRM 9756.5 sets forth guidelines for use of a weapon. See Attachment 2. In summary it states:

  (1) Weapons may be used only as a last resort only to prevent threat of death or serious bodily injury.

  (2) Warning shots are prohibited.

  (3) Firing at a moving vehicle is prohibited unless the vehicle poses a threat of death or serious bodily injury.

  (4) Firing at a fleeing person will not be considered unless the agent has a reasonable cause to believe the person poses a threat of death or serious bodily injury.

  (5) Only reasonable and necessary force should be used. The agent should allow an escape rather than risk inflicting bodily harm by shooting

(C) IRM 9756.6 covers carrying of firearms and armed escorts on commercial aircraft. These conform to Federal Aviation Administration guidelines. See Attachment 3.

(D) IRM 9756.7 and 9756.9 cover guidelines on chemical weapons. Chemical weapons provide the agent with an alternative to the use of deadly force. Chemical weapons may be used only when milder forms of persuasion are ineffective and deadly force is not justified. Detailed instructions on the use of mace and providing first aid treatment is covered. See Attachment 4.

(E) IRM 9756.1 and 9756.2 set forth IRS standards for firearms and ammunition. See Attachment 5.

(F) IRM 9768.1 to 9768.5 sets forth firearms training guidelines. See Attachment 6.

(G) Policy Statement P-9-37 states that investigators will only use such force as is reasonable and necessary under the conditions which confront them. See Attachment 7.

(H) The guidelines regarding issuance and use of weapons are repeated in the special agent's handbook, section 373.48. See Attachment 8.

Attachment #1

9756.4 (2-1-80) Issuance of Firearms to Special Agents

(1) Permission to carry firearms will normally be at the discretion of the special agent's immediate supervisor and if the special agent is engaged in enforcement activities of such a nature that prudence indicates need for them may arise. The supervisor may authorize special agents to carry firearms both during duty hours and off duty hours, if in the authorizing official's judgement a bona-fide need for firearms exists, related to the performance of official duties.

(2) Before granting permission, the immediate supervisor must be assured each special agent is clearly familiar with the Treasury policy and guidelines for weapons use and has qualified within the past six months. Each Investigator should be provided with a copy of these manual provisions and periodically consulted to see they have the most recent issuance.

(3) Firearms may be taken home overnight or during a weekend *when required for official purposes* which include but are not limited to assault duty, when going on itinerary, or when the special agent concludes his/her day with field calls requiring carrying firearms or such activities will be required for the next work day assignments.

(4) Qualification to carry or use privately owned weapons during off-duty hours is done as a private citizen subject to local, civil and criminal restrictions. Investigators may not use their position or credentials to qualify under state or local laws to purchase, license, carry, or use private weapons; however, credentials may be displayed as occupational identification, upon request, but not to influence the decision.

(5) The Director, the ARC's and the Chiefs are responsible for determining whether all GS-1811 series personnel in their respective offices (including posts of duty under the Chief) have met the requirements for carrying firearms. Proper training in safety measures and marksmanship is essential to the safe operation of a firearm. These officials will not permit any GS-1811 series personnel in their offices to carry a firearm unless the individual has qualified with firearms within the last six months (see IRM 9768.3). District personnel will be required to qualify with their assigned weapon. Personnel assigned to the regions, National Office, and other locations where weapons are not individually assigned, but drawn from a pool, will be required to qualify with a weapon similar to the type the agent will carry. For example, an agent carrying a 2 inch barrel revolver must qualify with a 2 inch barrel revolver. All special agents, when carrying a firearm, must have their badge and pocket commission on their person, except under unusual circumstances relating to special assignments, with approval of the ARC (Criminal investigation).

(6) If under unusual circumstances relating to a special assignment, the special agent is authorized by the ARC (Criminal Investigation) to carry a firearm other than his/her assigned firearm, the authorizing official will require the special agent to qualify with that firearm.

Attachment #2

9756.5 *(11-21-80)*
Use of Firearms by Special Agents

(1) A firearm may be discharged only as a last resort and only when the special agent has reason to believe that the person he/she is considering shooting poses an immediate threat of death or serious bodily injury to the agent or others. The authority to bear firearms carries with it an obligation and responsibility to exercise discipline, restraint, good judgment, and proficiency. The special agent must keep in mind that when firing a weapon there always exists a danger to innocent persons.

(2) Firing a weapon should be with the intent of rendering the person at whom the weapon is discharged incapable of continuing the activity prompting the agent to shoot.

(3) Warning shots are prohibited.

(4) Firing at a moving vehicle with the intent of rendering it incapable of being operated poses a formidable danger to innocent parties. Therefore, firing at a moving vehicle shall not be considered justified except when the vehicle is being used as a weapon and poses an immediate threat of death or serious bodily injury to the special agent or others, or when the occupant poses an immediate threat of death or serious bodily injury to the agent or others by use of firearms.

(5) Firing at a fleeing person will not be considered justified unless the agent has reasonable cause to believe that the person poses a threat of death or serious bodily injury to the special agent or others.

(6) As a general rule, when in the presence of the public, a handgun should be drawn only when the special agent has sufficient cause to expect it will be used and is preparing for its use.

(7) When making arrests or searches and seizure, only reasonable and necessary force may be used by the special agent. As stated in P-9-37, the special agent should allow the escape of a subject rather than risk inflicting bodily harm by shooting at the subject where an arrest is being attempted for a violation of internal revenue laws, or other malum prohibitum offense.

(8) When a handgun is being carried in the conduct of official business, it will be inconspicuously carried upon the person of the agent so as to be away from public view. However, a special agent may display a firearm while in the performance of official business when it is evident that by doing so the use of a firearm may be avoided.

(9) If, while carrying a firearm on official duty, a special agent observes a Federal crime being committed, he/she is expected to respond, depending on the circumstances involved. Ordinarily, the special agent should notify the appropriate Federal or local authority. In life/death situations or incidents in which he/she is inextricably involved, the special agent should respond as a Federal law enforcement officer.

(10) A special agent is also authorized to appropriately respond should a non-Federal crime involving danger of loss of life or serious bodily injury be committed in his/her presence, or where he/she reasonably believes such a crime has occurred; however, the special agent should understand that in non-Federal crime situations, his/her authority is that of a private citizen and the rules of "citizens arrest" apply. If circumstances allow, local authorities should be notified rather than becoming involved. If not, good judgment must prevail in the course of action taken.

(11) In all circumstances involving the use of a firearm to halt a crime involving danger of loss of life or serious bodily injury to themselves or to another person, special agents are to use the guidelines set forth above. They will be followed regardless of the fact that state or local law may be more liberal in allowing their law enforcement officers to use firearms.

(12) Whenever a firearm is discharged by a special agent while in the performance of official duty (including accidental discharge but excluding target practice), the special agent will submit a full explanation of the reasons for such action in a memorandum which will be forwarded through official channels to the Director, Criminal Investigation Division (CP:CI:M).

Attachment #3

9756.6 *(3-12-82)*

Carrying Firearms and Armed Escorts on Commercial Airplanes

(1) Federal Aviation Administration Regulations, Sections 108.11 and 108.21 of 14 CFR 108, Airplane Operator Security, provides information and guidance concerning the carriage of weapons and the carriage of passengers under the control of armed law enforcement escort(s). This material is summarized in Federal Aviation Administration (FAA) Advisory Circular 108-2 dated Oct. 16, 1981. These Regulations apply to carriage of weapons and escort of individuals on scheduled passenger and/or charter operations. This definition includes air commuter operations, air taxis and other similar type of air service available to the public.

(2) Carriage of weapons by special agents aboard aircraft should be limited to those instances where the special agent needs the weapon accessible in the performance of official duty during the period from the time it would otherwise be placed in checked baggage until such time as it would have been returned after deplaning.

(3) When a special agent is acting in the capacity of armed escort or other type assignment which requires carrying a weapon onboard commercial aircraft, appropriate airline officials should be notified at least one hour in advance, or in case of emergency as soon as possible, before departure. Special agents will then be guided by instructions from the airline official as to what procedure(s) should be followed.

(4) As a general rule, armed federal law enforcement officers will be in one of the following categories when on travel status:

a) Armed individual traveling alone (occasionally without baggage);

b) Armed, transporting a non-dangerous prisoner;

c) Armed, transporting a dangerous prisoner;

d) Armed escort accompanying a dignitary;

e) Armed, conducting a surveillance on suspect.

f) Armed escort, for protection of a witness or informtion.

(5) Your carriage of a weapon and your identity will be made known to airline personnel who need this knowledge.

(6) In the event of a disturbance aboard the aircraft you are not to take any action unless it is specifically requested by the flight captain.

(7) Armed special agents will not consume alcoholic beverages prior to, or during flight.

(8) Instructions pertaining to armed escort of prisoners, are as follows:

a) The air carrier must be notified at least one hour before departure, or in an emergency, as soon as practicable of the identity of the passenger to be carried and the flight on which it is proposed to carry the passenger.

b) Whether the passenger is considered to be in a maximum risk category (dangerous) or not.

c) If the passenger is considered to be in a maximum risk category, the passenger must be under the control of at least two armed special agents.

d) No more than one passenger in a maximum risk category can be carried on the airplane.

e) If the passenger is considered to be not in a maximum risk category, the passenger should be under the control of at least one special agent. No more than two of these persons may be carried under the control of any one special agent.

(9) The air carrier should be assured by the special agent, prior to departure, that:

a) The special agent is equipped with adequate restraining devices to be used in the event restraint of any passenger under control of the special agent becomes necessary. Some aircraft operators do not permit restraining devices to be used while in flight due to perceived safety/liability concerns that might arise in the event of an incident or an accident. The special agent and the aircraft operator should have a clear understanding of this issue prior to initiation of the intended travel.

b) Each passenger under the control of the special agent has been searched and does not have on or about their person or property anything that could be used as a deadly or dangerous weapon.

c) Each passenger under the control of the special agent should be boarded before any other passengers at the airport where the flight originates and deplane at the destination after all other passengers have departed.

d) Special agent and passenger should be seated in the rear most passenger seat when boarding. This seat should be located away from any lounge area and not directly across from any exit. At least one escort should sit between the person in custody and any aisle.

e) The passenger cannot consume any alcoholic beverages while on board the airplane.

f) Each special agent, at all times, shall accompany the passenger under their control and keep the passenger under surveillance while aboard the airplane.

g) This section does not apply to the carriage of passengers under voluntary protective escort.

(10) The following procedures will be utilized in the carriage of firearms and ammunition in checked luggage:

(a) The weapon must be unloaded.

(b) The carrier must be notified prior to checking baggage that a firearm is in checked baggage and that it is unloaded. If requested, the special agent will submit a written declaration that the firearm is stored as specified. It is likely that the carrier will have a preprinted from for this declaration.

(c) The baggage must be locked and the agent in possession of the key or combination. The special agent's name and address should be included inside the baggage. Checked baggage containing weapons will not be carried in the flight crew compartment or any area accessible to passengers.

(d) Small arms ammunition must be packed in pasteboard, or other inside boxes, or in partitions designed to fit snugly into outside wooden, fiberglass, or metal containers, or must be packed in metal ammunition clips. The packaging must be designed to protect the primers from accidental discharge.

(e) Special agents will not carry chemical weapons aboard any aircraft (See IRM 9756.9:(7).

Attachment #4

9756.7 (6-19-79)
Chemical Weapons

(1) No chemical weapon other than that furnished by the Service will be carried by special agents on official duty. Only chemical weapons using aerosol-propelled liquid tear gas of the CN type (MACE) are authorized. Other types of tear-generating agents (such as oleoresin capsicum or tear gas marked DM or CS) are not authorized and will not be used.

(2) Chemical weapons may be assigned either to individual special agents on a permanent basis or they may be retained in a pool in the district or local office and withdrawn as needed.

(3) At regional offices and the National Office, chemical weapons will be retained in a pool and withdrawn as needed.

(4) The Director, the Assistant Regional Commissioners and the Chiefs, Criminal Investigation Division, or their designees shall make provision to ensure that chemical weapons are properly disposed of at the expiration of their shelf life.

(5) In accordance with Exhibit 400-1 of IRM 1(14)49, Personal Property Management Handbook, any acquisition of a chemical weapon must be requested through channels to the Director, Criminal Investigation Division, Attn: CP:CI:M, for approval.

(6) Chemical weapons cannot be shipped by air. Also, the U.S. mails should be avoided because their means of transportation cannot be controlled. The only recommended procedure for shipping chemical weapons is using rail or truck.

9756.9 (6-19-79)
Use of Chemical Weapons by Special Agents

(1) Chemical weapons may be carried by Criminal Investigation Division personnel when engaged in enforcement activities of such a nature that prudence indicates need for them may arise (i.e., riots, rebellions, arrests, attacks on people or property).

(2) The Director, the Assistant Regional Commissioners and the Chiefs, Criminal Investigation Division or their designees, may authorize special agents in their respective offices (includes posts of duty under the Chief) to carry chemical weapons if in his/her judgment a bona fide need exists, related to the performance of official duties.

(3) The Director, the Assistant Regional Commissioners and the Chiefs, Criminal Investigation Division, or their designees shall ensure that each special agent whose duty requires the handling or use of a chemical weapon thoroughly understands its use and effects, including the proper first-aid treatment for persons affected by its use. Instruction involving the use of and first aid in the treatment of chemical irritants may be incorporated into the firearms refresher training program thereby utilizing the firearms coach concept.

(4) Chemical weapons may be used only when milder forms of persuasion are ineffective and deadly force is not justified. Aerosol-propelled tear gas must be treated as another dangerous weapon, using safety precautions similar to those used with firearms.

(5) Every effort must be made to direct the spray at a person's chest for the minimum time required to incapacitate and at a distance of at least two feet.

(6) It is a misuse of the chemical weapon to deliberately discharge it directly into the face of an incapacitated person or to discharge quantities in excess of the equivalent of five, one-second bursts, or to discharge large quantities of the spray in a confined place such as a small room or a closed automobile.

(7) Special agents will not carry chemical weapons aboard an aircraft. This restriction also covers the placing of these items in checked baggage, inasmuch as the baggage compartment is part of the air circulation system of the conveyance.

(8) Whenever a chemical weapon is discharged by a special agent while in the performance of official duty (except official training or to accomplish disposal at end of shelf life), the special agent will submit a full explanation of the reasons for such action in a memorandum which will be forwarded through official channels to the Director, Intelligence Division, Attention: CP:CI:M, Washington, D.C. 20224. The memorandum should include, where possible, the identity of the person afflicted by the tear gas and any first-aid measures subsequently applied.

Attachment #5

756.1 (6-19-79)
Firearms Standards

(1) No weapons or ammunition other than that furnished by the Service except as provided in IRM 9756.2:(8) will be carried by any special agent on official business. As set forth in Policy Statement P-1-109. All handguns furnished for regular assignment to personnel will be American made .38 special caliber revolver type.

(2) Service-issued guns may be modified upon approval of the ARC (Criminal Investigation). Such modifications must be made by qualified personnel or a gunsmith. Installation of grips and grip adapters are not considered to be modifications to weapons.

(3) Trigger shoes are prohibited on all official weapons.

(4) Criminal Investigation guns must have a minimum of three pound pressure trigger pull.

(5) The .38 special caliber revolver (all steel) with two-inch barrel will be assigned to each special agent at the district office. Firearms may be assigned, one to each special agent, on a permanent basis or they may be retained in a pool in the district or local office and withdrawn as needed. If the weapons are retained in a pool, each special agent should be issued, to the extent possible, the same gun each time to ensure better proficiency in handling the weapon.

(6) The .38 special caliber revolver (all steel) with two-inch barrel will be assigned on a ratio of one for each two special agents or technical personnel at regional offices and the National Office.

(7) The .38 special caliber revolver with four-inch barrel will be assigned, as needed, for special assignments where greater accuracy and reliability may be compelling factors for target practice, training and for competition.

(8) The .38 special caliber revolver with six-inch barrel will be assigned, as needed, for training and competition purposes.

(9) The .22 caliber revolver on a .38 special caliber frame will be assigned, as needed, for training purposes.

(10) Under unusual circumstances relating to special assignments, the ARC (Criminal Investigation) may authorize the use of a Service-owned weapon of any type on a specific assignment basis.The Director may authorize the use of a Treasury owned weapon or any type for a specific assignment (See IRM 9756.4:(6).)

(11) Holsters of any standard type will be furnished on a basis of one holster for each revolver. The type of holster must be approved by the ARC (Criminal Investigation), except when purchased as accessory equipment for revolvers by the National Office.

(12) Any firearm which does not meet the prescribed standards shall be forwarded to the district Facilities Management Branch for adjustment or repair.

(13) The Chief, Criminal Investigation Division, shall make provision to ensure that each weapon is in perfect operating condition immediately preceding its issuance.

(14) Each special agent will be responsible for the weapon in his/her possession and will keep the gun clean and in perfect operating condition at all times.

(15) When a firearm is found to be defective, it will be forwarded immediately to the district Facilities Management Branch for repair.

(16) In accordance with IRM 1(14)49 Personal Property Management Handbook Exhibit 400-1, any acquisition of a firearm must be requested through channels to the Director, Criminal Investigation Division, Attn: CP:CI:M for approval.

9756.2 (6-19-79)
Ammunition Standards

(1) All Service-furnished ammunition for qualification and Service use will be new and American made. The exclusive use of new ammunition by criminal enforcement personnel has been selected because of quality control.

(2) Experiences of operating personnel indicate that reload ammunition create safety and security hazards, especially if used in line of duty, and may cause accelerated weapon deterioration.

(3) The standard service ammunition for Criminal Investigation will be the .38 special caliber, 110 grain jacketed hollow point available commercially with a copper units of pressure rating (cup) not to exceed 20,000 cup. Law enforcement ammunition with a designation of "+P+" or "++P" should not be used in Service-owned weapons.

(4) The .38 special calliber midrange or wadcutter, 148 grain, lead or lubaloy coated ammunition may be utilized for firearms competition, training, qualification, and requalification purposes.

(5) If the standard service ammunition (110 grain) is not utilized for training, qualification or requalification purposes, personnel should fire 30 rounds of this ammunition for familiarization purposes at each qualification and requalification.

(6) The .22 caliber long rifle pistol match target ammunition (40 grain) may be used for firearms training.

(7) The above ammunition standards and restrictions will not apply when in the judgment of the ARC (Criminal Investigation) the use of different ammunition is necessary or desirable such as in special assignments or situations, but it should be understood that ammunition rated "+P+" or "++P" is unsafe in small frame weapons (i.e. Smith and Wesson Chief, Colt Detective Special, etc.).

(8) Special agents on dignitary protection under the direction of Secret Service are permitted to utilize ammunition provided them by the Secret Service. The Secret Service utilizes only ammunition with a CUP rating of "+P+" or "++P". Special Agents are cautioned not to use this ammunition in small frame weapons (i.e. Smith and Wesson Chief, Colt Detective Special) and to have a larger frame weapon made available to them for these assignments (i.e. Smith and Wesson Model 15, Colt Lawman, etc.)

Attachment #6

9768.1 (6-19-79)
Basic Training

(1) All special agents and Criminal Investigation group managers at the district level must be provided the basic firearms training outlined in Federal Law Enforcement Training Center's Criminal Investigator School Publication T37, "Marksmanship." This requirement will not apply to personnel who have previously qualified in the use of firearms pursuant to prior In-Service training courses at CIS Basic firearms training should be provided personnel for whom it is prescribed as soon as possible.

(2) Basic firearms training may be instituted for other Criminal Investigation technical personnel at the district, regional and National Office levels at the option of the responsible Criminal Investigation Division officials.

9768.2 (6-19-79)
Refresher Firearms Training

(1) At least once every six months, all special agents (Criminal Investigators GS-1811) must be provided with safety and refresher training in the use of firearms as outlined in Publication T37.

(2) Special agents should be encouraged to utilize range facilities outside of regular duty hours to maintain or improve their proficiency with firearms. Regional offices should, within reason, make ammunition available for this purpose.

(3) Special agents engaged in off-duty firearms practice are considered to be in the performance of duty under the Federal Employees' Compensation Act, provided that the agents use Service issued firearms and ammunition, and the arrangements for the range facilities are made by the Chief, Criminal Investigation Division or the Chief's designee.

(4) Any injuries incurred should be reported to Facilities Management in accordance with the Safety Program, IRM 1(16)10, and to the Personnel Branch in accordance with FPM 810 and IRM 0810.

(5) Whenever special agents engage in firearms practice it is mandatory that they wear protective glasses with side panels and ear protectors. The National Office (CP:CI:M) will furnish the protective glasses with side panels on request.

9768.3 (6-19-79)
Firearms Qualification

Standards for qualification are contained in Publication T37. The Modified Practical Pistol Course (MPPC) should be utilized for qualification. If the MPPC course is not practicable, at the option of the Chief, personnel may fire either the Standard Qualification Course (SQC) or the Practical Pistol Course (PPC). At the time of basic or refresher firearms training, every effort should be made to have each special agent (Criminal Investigator GS-1811) qualify in the use of firearms. No personnel will be authorized to carry a firearm unless he/she has qualified with firearms within the last six months.

9768.4 (6-19-79)
Responsibilities for Firearms Training

Responsibility for providing mandatory basic and refresher firearms training rests with the Chief. The ARC will be responsible for coordinating this program, ensuring that the training is provided in all districts of the region, and identifying any need within the region for additional firearms-training.

9768.5 (6-19-79)
Firearms Coach

(1) Each Chief will designate one or more district's Criminal Investigation employees as a Firearms coach. Firearms coaches should use Publication T37 in conducting basic and refresher firearms training courses for Criminal Investigation personnel and should maintain for each trainee a Firearms Training Program Progress Record, Form 3429. A copy of the Form 3429 for each trainee should be furnished to the head of the trainee's office (i.e., the Chief, the ARC, or the Director) at the conclusion of each course of training.

(2) The services of range officers and other qualified firearms instructors who are not Criminal Investigation employees may be utilized in providing basic and refresher firearms training equivalent to that set out in Publication T37. In such instances, the Firearms coach designated by the Chief will be responsible for ensuring that Forms 3429 are completed and submitted.

(3) Requests for firearms coaches training should be made through the ARC (Resources Management) with a copy of the request sent to the Director, Criminal Investigation Division, Attn: CP:CI:P.

Attachment #7

P-9-37 *(Approved 7-28-60)*

Use of force in making arrests, searches and seizures

The law (USC Title 26) authorizes investigators to execute arrest and search warrants, to seize property subject to forfeiture, and to make arrests without warrant under prescribed circumstances. Any excessive use of force, however, subjects an offending officer to Federal and State penalties.

Investigators will use only such force as is reasonable and necessary under the conditions which confront them, regardless of the extremities which may be authorized by State law; and where an arrest is being attempted for a violation of the internal revenue laws, or other *malum prohibitum* offense, the investigator will permit the escape of the subject rather than risk inflicting serious bodily harm upon the subject by shooting at the subject or otherwise.

Attachment #8

373.48 *(1-18-80)* 9781

Firearms and Ammunition

373.481 *(1-18-80)* 9781

Authority to Carry

(1) There is no specific statutory authority for special agents to carry firearms. The General Counsel, Department of the Treasury, has concluded that no specific authority is necessary because "where a Federal Officer has authority to make an arrest, he/she has implied authority to carry firearms." Authority for special agents to make arrests is contained in 26 USC 7608(b).

(2) The authority to carry firearms is limited to the conduct of official duties in enforcing any of the criminal provisions of the Internal Revenue laws or other criminal provisions of laws relating to Internal Revenue where the enforcement is the responsibility of the Secretary or his delegate.

373.482 *(1-18-80)* 9781

Issuance of Firearms to Special Agents

(1) Permission to carry firearms will normally be at the discretion of the special agent's immediate supervisor. The supervisor may authorize special agents to carry firearms both during duty hours and off duty hours, if in the authorizing official's judgement a bona-fide need for firearms exists, related to the performance of official duties.

(2) Before granting permission, the immediate supervisor must be assured each special agent is clearly familiar with the Treasury policy and guidelines for weapons use and has qualified within the past six months. Each agent should be provided with a copy of these Manual provisions and periodically consulted to see they have the most recent issuance.

(3) Firearms may be taken home overnight or during a weekend when the special agent finishes his/her workday which requires the carrying of firearms, or when such firearms will be required for the next work day assignments.

(4) Qualification to carry or use privately owned weapons during off-duty hours is done as a private citizen subject to local, civil and criminal restrictions. Special agents may not use their position or credentials to qualify under state or local laws to purchase, license, carry, or use private weapons; however, credentials may be displayed as occupational identification, upon request, but not to influence the decision.

(5) Special agents will not be allowed to carry a firearm unless they have qualified with that firearm in the past six months. (See IRM 9768.3). All special agents must have their badge and pocket commission on their person, when carrying a firearm, except under unusual circumstances relating to special assignments

approved by the Assistant Regional Commissioner (Criminal Investigation).

373.483 (1-18-80) 9781
Firearms Standards

(1) No weapons or ammunition other than that furnished by the Service except as provided in IRM 9756.2:(7) will be carried by any special agent on official business. All handguns furnished for regular assignment to personnel will be American made .38 special caliber revolver type.

(2) Service-issued guns may be modified upon approval of the ARC (Criminal Investigation). Such modifications must be made by qualified personnel or a gunsmith. Installation of grips, and grip adapters are not considered to be modifications to weapons.

(3) Trigger shoes are prohibited on all official weapons.

(4) Criminal Investigation guns must have a minimum of three pound pressure trigger pull.

(5) The .38 special caliber revolver (all steel) with two-inch barrel will be assigned to each special agent at the district office. Firearms may be assigned, one to each special agent, on a permanent basis or they may be retained in a pool in the district or local office and withdrawn as needed. If the weapons are retained in a pool, each special agent should be issued, to the extent possible, the same gun each time to ensure better proficiency in handling the weapon.

(6) The .38 special caliber revolver (all steel) with two-inch barrel will be assigned on a ratio of one for each two special agents or technical personnel at regional offices and the National Office.

(7) The .38 special caliber revolver with four-inch barrel will be assigned, as needed, for special assignments where greater accuracy and reliability may be compelling factors for target practice, training and for competition.

(8) The .38 special caliber revolver with six-inch barrel will be assigned, as needed, for training and competition purposes.

(9) The .22 caliber revolver on a .38 special caliber frame will be assigned, as needed, for training purposes.

(10) Under unusual circumstances relating to special assignments, the ARC (Criminal Investigation) may authorize the use of a Service-owned weapon of any type on a specific assignment basis. The Director may authorize the use of a Treasury-owned weapon of any type for a specific assignment (See IRM 9756.4:(6)).

(11) Holsters of any standard type will be furnished on a basis of one holster for each revolver. The type of holster must be approved by the ARC (Criminal Investigation), except when purchased as accesssory equipment for revolvers by the National Office.

(12) Any firearm which does not meet the prescribed standards shall be forwarded to the district Facilities Management Branch for adjustment or repair.

(13) The Chief, Criminal Investigation Division, shall make provision to ensure that each weapon is in perfect operating condition immediately preceding its issuance and annual inspections thereafter.

(14) Each special agent will be responsible for the weapon in his/her possession and will keep the gun clean and in perfect operating condition at all times.

(15) When a firearm is found to be defective, it will be forwarded immediately to the district Facilities Management Branch for repair.

(16) In accordance with IRM 1(14)49 Personal Property Management Handbook Exhibit 400-1, any acquisition of a firearm must be requested through channels to the Director, Criminal Investigation Division, Attn: CP:CI:M for approval.

373.484 (1-18-80) 9781
Ammunition Standards

(1) All Service-furnished ammunition for qualification and Service use will be new and American made. The exclusive use of new ammunition by criminal enforcement personnel has been selected because of quality control.

(2) Experiences of operating personnel indicate that reload ammunition create safety and security hazards, especially if used in line of duty, and may cause accelerated weapon deterioration.

(3) The standard service ammunition for Criminal Investigation will be the .38 special caliber, 110 grain jacketed hollow point available commercially with a copper units of pressure rating (cup) not to exceed 20,000 cup. Law enforcement ammunition with a designation of "+P+" or "++P" should not be used in small frame service owned weapon (i.e., Smith and Wesson Chief, Colt Detective Special, etc.).

(4) The .38 special caliber midrange or wadcutter, 148 grain, lead or lubaloy coated ammunition may be utilized for firearms competition, training, qualification, and requalification purposes.

(5) If the standard service ammunition (110 grain) is not utilized for training, qualification or requalification purposes, personnel should fire 30 rounds of this ammunition for familiarization purposes at each qualification and requalification.

(6) The .22 caliber long rifle pistol match target ammunition (40 grain) may be used for firearms training.

(7) The above ammunition standards and restrictions will not apply when in the judgment of the ARC (Criminal Investigation) the use of different ammunition is necessary or desirable such as in special assignments or situations.

(8) Special agents on dignitary protection under the direction of Secret Service are permitted to utilize ammunition provided them by the Secret Service, however, the Secret Service utilizes only ammunition with a CUP rating of "+P+" or "++P". Special Agents are cautioned not to use this ammunition in small frame weapons (i.e. Smith and Wesson Chief, Colt Detective Special) and to have a larger frame weapon made available to them for these assignments (i.e. Smith and Wesson Model 15, Colt Lawman, etc.)

373.485 (1-18-80) 9781

Use of Firearms by Special Agents

(1) Firearms Policy

(a) A firearm may be discharged only as a last resort when in the considered opinion of the officer there is danger of loss of life or serious bodily injury to himself or to another person.

(b) Firing a weapon should be with the intent of rendering the person at whom the weapon is discharged incapable of continuing the activity prompting the agent to shoot.

(c) Warning shots pose a hazard to innocent parties. They should be fired only when the expected effect is to minimize substantially the necessity of firing directly at a person, *AND* there is negligible danger of injury to an innocent party.

(d) Firing at a moving vehicle with the intent of rendering it incapable of being operated poses a formidable danger to innocent parties. The possibility of a richochet is greatly increased when the target is a car body or a spinning tire. Utmost caution must be exercised when considering such action.

(e) Firing at a fleeing person will not be considered justified unless the officer has reasonable cause to believe that the person he/she is considering shooting poses a threat to the life of the officer or others.

(f) As a general rule when in the presence of the public, a handgun should be drawn only when the special agent or his/her superiors have sufficient cause to expect it will be used and the officer is preparing for its use.

(g) When making arrests or searches and seizure, only reasonable and necessary force may be used by the special agent. The special agent should allow the escape of a subject rather than risk inflicting bodily harm by shooting at the subject as stated in P-9-37.

(2) When a handgun is being carried in the conduct of official business, it will be inconspicuously carried upon the person of the agent so as to be away from public view. However, a special agent may display a firearm while in the performance of official business, if the agent feels that by doing so, it will relieve a threat against the agent or another person.

(3) If, while carrying a firearm on official duty, a special agent observes a Federal crime being committed, he/she is expected to respond, depending on the circumstances involved. Ordinarily, the special agent should notify the appropriate Federal or local authority. In life/death situations or incidents in which he/she is inextricably involved, the special agent should respond as a Federal law enforcement officer.

(4) A special agent is also authorized to appropriately respond should a non-Federal crime involving danger of loss of life or serious bodily injury be committed in his/her presence, or where he/she reasonably believes such a crime has occurred; however, the special agent should understand that in non-Federal crime situations, his/her authority is that of a private citizen and the rules of "citizens arrest" apply. If circumstances allow, local authorities should be notified rather than becoming involved. If not, good judgement must prevail in the course of action taken.

(5) In all circumstances involving the use of a firearm to halt a crime involving danger of loss of life or serious bodily injury to themselves or to another person, special agents are to use the Treasury Department guidelines set forth above. They will be followed regardless of the fact that state or local law may be more liberal in allowing their law enforcement officers to use firearms.

(6) Whenever a firearm is discharged by a special agent while in the performance of official duty (except official target practice), the special agent will submit a full explanation of the reasons for such action in a memorandum which will be forwarded through official channels, to the Director, Criminal Investigation Division (CP:CI:M).

373.486 *(3-12-82)* 9781

Carrying Firearms and Armed Escorts on Commercial Airplanes

(1) Federal Aviation Administration Regulations, Sections 108.11 and 108.21 of 14 CFR 108, Airplane Operator Security, provides information and guidance concerning the carriage of weapons and the carriage of passengers under the control of armed law enforcement escort(s). This material is summarized in Federal Aviation Administration (FAA) Advisory Circular 108-2 dated Oct. 16, 1981. These Regulations apply to carriage of weapons and escort of individuals on scheduled passenger and/or charter operations. This definition includes air commuter operations, air taxis and other similar type of air service available to the public.

(2) Carriage of weapons by special agents aboard aircraft should be limited to those instances where the special agent needs the weapon accessible in the performance of official duty during the period from the time it would otherwise be placed in checked baggage until such time as it would have been returned after deplaning.

(3) When a special agent is acting in the capacity of armed escort or other type assignment which requires carrying a weapon onboard commercial aircraft, appropriate airline officials should be notified at least one hour in advance, or in case of emergency as soon as possible, before departure. Special agents will then be guided by instructions from the airline official as to what procedure(s) should be followed.

(4) As a general rule, armed federal law enforcement officers will be in one of the following categories when on travel status:

a) Armed individual traveling alone (occasionally without baggage);

b) Armed, transporting a non-dangerous prisoner;

c) Armed, transporting a dangerous prisoner;

d) Armed escort accompanying a dignitary;

e) Armed, conducting a surveillance on suspect.

f) Armed escort for protection of a witness or information

(5) Your carriage of a weapon and your identity will be made known to airline personnel who need this knowledge.

(6) In the event of a disturbance aboard the aircraft you are not to take any action unless it is specifically requested by the flight captain.

(7) Armed special agents will not consume alcoholic beverages prior to, or during flight.

(8) Instructions pertaining to armed escort of prisoners, are as follows:

(a) The air carrier must be notified at least one hour before departure, or in an emergency, as soon as practicable of the identity of the passenger to be carried and the flight on which it is proposed to carry the passenger.

(b) Whether the passenger is considered to be in a maximum risk category (dangerous) or not.

(c) If the passenger is considered to be in a maximum risk category, the passenger must be under the control of at least two armed special agents.

(d) No more than one passenger in a maximum risk category can be carried on the airplane.

(e) If the passenger is considered to be not in a maximum risk category, the passenger should be under the control of at least one special agent. No more than two of these persons may be carried under the control of any one special agent.

(9) The air carrier should be assured by the special agent, prior to departure, that:

(a) The special agent is equipped with adequate restraining devices to be used in the event restraint of any passenger under control of the special agent becomes necessary. Some aircraft operators do not permit restraining devices to be used while in flight due to perceived safety/liability concerns that might arise in the event of an incident or an accident. The special agent and the aircraft operator should have a clear understanding of this issue prior to initiation of the intended travel.

(b) Each passenger under the control of the special agent has been searched and does not have on or about their person or property anything that could be used as a deadly or dangerous weapon.

(c) Each passenger under the control of the special agent should be boarded before any other passengers at the airport where the flight originates and deplane at the destination after all other passengers have departed.

(d) The special agent and passenger should be seated in the rear most passenger seat when boarding. This seat should be located away from any lounge area and not directly across from any exit. At least one escort should sit between the person in custody and any aisle.

(e) The passenger cannot consume any alcoholic beverages while on board the airplane.

(f) Each special agent, at all times, shall accompany the passenger under their control and keep the passenger under surveillance while aboard the airplane.

(g) This material does not apply to the carriage of passengers under voluntary protective escort.

(10) The following procedures will be utilized in the carriage of firearms and ammunition in checked luggage:

(a) The weapon must be unloaded.

(b) The carrier must be notified prior to checking baggage that a firearm is in checked baggage and that it is unloaded. If requested, the special agent will submit a written declaration that the firearm is stored as specified. It is likely that the carrier will have a preprinted form for this declaration.

(c) The baggage must be locked and the agent in possession of the key or combination. The special agent's name and address should be included inside the baggage. Checked baggage containing weapons will not be carried in the flight crew compartment or any area accessible to passengers.

(d) Small arms ammunition must be packed in pasteboard, or other inside boxes, or in partitions designed to fit snugly into outside wooden, fiberglass, or metal containers, or must be packed in metal ammunition clips. The packaging must be designed to protect the primers from accidental discharge.

(e) Special agents will not carry chemical weapons aboard any aircraft (See IRM 9756.9:(7).

373.487 *(1-18-80)* 9781
Security of Firearms and Ammunition

(1) Due to the dangerous nature of firearms and the potential for accidential injury and damage, the minimum guidelines for storing Government owned firearms and ammunition as contained in 436 of IRM 1(16)41. Physical and Document Security Handbook should be followed.

(2) Provision shall be made by the Chief, Criminal Investigation Division, for at least one safety inspection each year of all Government-owned firearms assigned to the Chief's office. The inspection may be performed by any person competent in the inspection of firearms, including local range officers, gunsmiths, or special agents who have an expert knowledge of firearms.

(3) If it is necessary to store weapons at home, they should be kept under lock and key. Ammunition should be kept locked in a separate location from the weapon. Special agents may wish to insert a padlock through the open cylinder, thereby rendering the revolver harmless.

(4) Firearms and ammunition should never be left in an automobile, even though the automobile is locked. However, if absolutely necessary, these items may be stored for short periods of time in the locked trunk of an automobile, providing the doors are also locked. Weapons will not be left locked in an automobile overnight.

(5) Never handle or point any firearm without first opening the weapon to make absolutely certain it is not loaded.

(6) At the range, do not load or cock your weapon unless you are at the firing line and facing the target. Do not turn around at the firing line with a loaded revolver in your hand without first breaking open the cylinder. Always examine the bore of a weapon before loading it to see that it is free from obstructions.

(7) Never leave an unattended firearm loaded.

373.488 *(1-18-80)* 9781
Chemical Weapons

(1) Chemical weapons may be carried by Criminal Investigation Division personnel when engaged in enforcement activities of such a nature that prudence indicates need for them may arise (i.e., riots, rebellions, arrests, attacks on people or property).

(2) The Director, the Assistant Regional Commissioners and the Chiefs, Criminal Investigation Division or their designees, may authorize special agents in their respective offices (includes posts of duty under the Chief) to carry chemical weapons if in his/her judgment a bona fide need exists, related to the performance of official duties.

(3) The Director, the Assistant Regional Commissioners and the Chiefs, Criminal Investigation Division, or their designees shall ensure that each special agent whose duty requires the handling or use of a chemical weapon thoroughly understands its use and effects, including the proper first-aid treatment for persons affected by its use. Instruction involving the use of and first aid in the treatment of chemical irritants may be incorporated into the firearms refresher training program thereby utilizing the firearms coach concept.

(4) Chemical weapons may be used only when milder forms of persuasion are ineffective and deadly force is not justified. Aerosol-propelled tear gas must be treated as another dangerous weapon, using safety precautions similar to those used with firearms.

(5) Every effort must be made to direct the spray at a person's chest for the minimum time required to incapacitate and at a distance of at least two feet.

(6) It is a misuse of the chemical weapon to deliberately discharge it directly into the face of an incapacitated person or to discharge quantities in excess of the equivalent of five, one-second bursts, or to discharge large quantities of the spray in a confined place such as a small room or a closed automobile.

(7) Special agents will not carry chemical weapons aboard an aircraft. This restriction also covers the placing of these items in checked baggage, inasmuch as the baggage compartment is part of the air circulation system of the aircraft.

(8) Whenever a chemical weapon is discharged by a special agent while in the performance of official duty (except official training or to accomplish disposal at end of shelf life), the special agent will submit a full explanation of the reasons for such action in a memorandum which will be forwarded through official channels to the Director, Criminal Investigation Division, Attention: CP:CI:M. The memorandum should include, where possible, the identity of the person afflicted by the tear gas and any first-aid measures subsequently applied.

373.489 *(1-18-80)* 9781
Security of Chemical Weapons

Due to the potential hazards associated with chemical weapons if indiscriminately used or accidentally misused, the minimum guidelines for storing investigative equipment as contained in Exhibit 500-2 of IRM 1(16)41, Physical and Document Security Handbook will be followed.

Request #3

3. Provide the Subcommittee with a review of the case of Mr. Blaine Friedlander and the Mt. Jezreel Baptist Church and its board members. This report should include a detailed discussion and explanation of how and when any of these individuals or the Church become the subject of IRS review or investigation and, specifically how any of these individuals or the Church were selected for audit. Further provide the Subcommittee, for its internal use, with a comprehensive report of any personnel investigations and internal audit or internal security reviews relating to the IRS agent involved in this group's complaint.

Mr. Blaine Friedlander, an attorney, represents the Mount Jezreel Baptist Church and its members. He has alleged that an IRS attorney has harassed members of the Church; that IRS abused its power in collecting taxes involving the Church's Day Care Center; that the IRS has failed to investigate their complaints; and alleges that IRS tactics have abused the rights of the Church for the past 16 years.

Charles E. Williams is an attorney with the IRS Office of Chief Counsel, Washington, DC.

Litigation between the Church and Williams began in 1966 when a new pastor, who Williams alleged submitted a false resume, was installed and actions were taken to exclude the IRS employee, his wife, and others from membership in the Church. Williams has filed six civil suits against the Church between 1966 and 1980.

In 1975, a Taxpayer Delinquent Investigation (TDI) was computer generated concerning the Mount Jezreel Baptist Church Day Care Center. The Center had filed employment tax returns prior to 1971, however there was no record of returns filed from 1971 to 1974. The Revenue Officer assigned the TDI contacted Mrs. Marie Johnson, Chairman of the Board of Managers of the Church and subsequently assisted her in the preparation of returns for the period 1971 through the first three quarters of 1974.

In addition, in March 1975, subsequent to the filing of the aforementioned employment tax returns, 17 Taxpayer Delinquent Accounts (TDA) were generated for the period 1971 through 1974 on the Day Care Center for taxes totaling $36,197.

A responsible officer was contacted by the Revenue Officer on April 2, 1975 at which time she stated she was unable to pay the taxes owed since funds were not received from the Department of Health, Education and Welfare. She stated the Day Care Center was going out of business because it didn't have enough children to support its operation. She stated on April 22, 1975 that she was the responsible officer for payment of the taxes.

Taxpayer Delinquency Investigations were also generated for employment taxes for two quarters in 1975 and two in 1976.

On March 22, 1979, a 100% penalty was assessed against the responsible officer for the first quarter 1975 Form 941, Employers Quarterly Tax Return, for failure to pay the taxes due. The assessment was for $1,071.64 and was paid on October 19, 1979.

There is no evidence that Mr. Williams was involved in the initiation of the collection activities. The delinquency investigations were based on the Day Care Center's failure to file employment tax returns and failure to pay employment taxes due.

Request #4

4. Provide the subcommittee with a complete background and fact sheet on Mr. Stuart Greenfield including all events leading up to, during and subsequent to the seizure of his property, his conviction for tax evasion and the current status of his case.

I Events Leading Up to the Seizure

During 1970, an investigation was being conducted by our Criminal Investigation Division concerning Mr. Greenfield's interest in 600,000 shares of stock in Meter Maid Industries, Inc. and possible violations of Sections 7201 and 7206(1) of the Internal Revenue Code. On May 28, 1970, jeopardy income tax assessments were made against Stuart and Eileen Greenfield for the years 1966, 1967 and 1968 because of an informant's tip that Mr. Greenfield was leaving the country, thereby placing his assets beyond the reach of the Service. Under the authority of Internal Revenue Code Section 6861, the Service may accelerate assessment procedures when taxes will be endangered if regular assessment and collection procedures are followed. See Attachment 1, IRC 7201, 7206(1) and 6861.

II The Seizure

On May 30, 1970, Revenue Officer Robert McMullen accompanied by three special agents approached Mr. Greenfield's boat to satisfy the tax liabilities by voluntary payment or seizure action. Mr. Greenfield was known to be a hostile individual with a violent temper. Therefore, the revenue officer requested the escort for assistance in carrying out the seizure without incident. Upon arrival at the Meter Maid III, the service employees noticed that Mr. and Mrs. Greenfield and their two teen-aged daughters were loading the boat. Mr. McMullen displayed his credentials, presented Mr. Greenfield with copies of the notices of assessment and levy document, then demanded full payment of the liability.

Mr. Greenfield stated he could not pay, so seizure action commenced.

The Greenfields were permitted to leave the boat at any time and take with them any personal belongings, which they did. Mr. Greenfield was allowed to call his attorney, which he did.

When his attorney, Mr. Rosen, arrived at the boat, Mr. Greenfield went with him to the "head" of the ship and spent several minutes inside. When their discussions had ended, Mr. Greenfield left the "head" with a large, obvious bulge in his pockets which had not been there previously. One of the special agents, suspecting Mr. Greenfield was removing what was now government property, asked Mr. Greenfield to exhibit the contents of his pockets.

Mr. Greenfield refused. One of the agents then went to a pay phone booth to call his manager to find out if he was permitted to search the taxpayer. During that time, another special agent stood at the end of the boat slip to block Mr. Greenfield from leaving until they had received an answer from their manager. The only physical contact was then made by Mr. Greenfield who had pushed into the agent and eventually jumped past the agent and onto the main pier. However, at the advice of Mr. Rosen, Mr. Greenfield returned to the boat where again the two of them went off alone. When they returned, the "bulge" was now in Mr. Rosen's pockets. Mr. Rosen left the boat without any attempt of restraint from an IRS employee.

The entire Greenfield family left the boat after unloading their personal effects, and the revenue officer took an inventory of the contents of the ship. See Attachment 2, affidavits of the revenue officer and special agents.

The boat was sold at public auction. The perishables left by the Greenfields were sold at dockside. Nothing was thrown overboard by IRS employees. The proceeds of the sales were applied to outstanding liabilities.

III Events Subsequent to the Seizure

(A) To protect the government's interests, the Service took steps to levy other assets of Mr. Greenfield. On June 1, 1970, two safe deposit boxes in two different banks were placed under seizure. One was believed to have nothing of value and was released; the other contained cash of $546 which was applied to the 1968 tax liability. On August 1, 1971, a Notice of Levy was served upon Edward H. Levin, Trustee, to attach stock in Land Services, Inc. which was believed to have been owned by Mr. Greenfield. The Service later determined the stock to be worthless as all the officers of Land Services had been indicted for fraud.

(B) On October 1, 1970, Stuart and Eileen Greenfield filed a petition with the U.S. Tax Court for the 1966, 67 and 68 tax years. Mr. Greenfield submitted to the Tax Court on June 15, 1971, an Affidavit and Motion to Return Documents in which Mr. Greenfield made various allegations with respect to the boat seizure. The IRS employees involved submitted affidavits to the court regarding the seizure; no action was taken.

(In 1975, five years after the seizure, Mr. Greenfield lodged a complaint with the IRS about the behavior of the Service employees. The 1970 incident was not investigated by our Inspection Division after reviewing the affidavits from the employees involved.)

(C) On May 11, 1981, the IRS seized Mr. Greenfield's residence. Mr. Greenfield filed an Injunction to stop the action of the Service, however, the Injunction was dismissed by the court on December 18, 1981. Meanwhile, the mortgagor on July 13, 1981 filed a suit to foreclose on the property. To date, the mortgagor has not taken action to sell the house. The Service has not enforced the seizure pending the mortgagor's action.

IV Mr. Greenfield's Conviction

In 1973, Mr. Greenfield was convicted and sentenced to four months in prison, twenty months suspended sentence and thirty-six months probation for violation of IRC 7201 and 7206(1) for tax years 1966, 1967 and 1968.

V Current Status of the Case

(A) On July 10, 1978, as a result of Tax Court Memorandum 1978-251, the amount of tax and fraud penalty due for tax year 1968 was reduced by $383,273.43, leaving a balance of $196,137.01. The 1966 and 1967 liabilities have been paid in full. The 1968 liability remains outstanding.

(B) In August 1971, Mr. and Mrs. Greenfield filed a 1969 income tax return showing a $63,110 liability and a 1970 income tax return showing a $2,488.00 tax liability. These two tax periods are in the process of being reduced to judgments.

ATTACHMENT 1

In '65, P. L. 89-44, eliminated subsec. (d)(F) which was a cross reference to section 4101 relating to a producer or importer of gasoline or a manufacturer or producer of lubricating oils subject to tax under chapter 32, effective with respect to articles sold on or after 7/1/65.

CHAPTER 74.—CLOSING AGREEMENTS AND COMPROMISES

Sec.
7121. Closing agreements.
7122. Compromises.
7123. Cross references.

Sec. 7121. Closing agreements.

(a) Authorization.

The Secretary is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) Finality.

If such agreement is approved by the Secretary (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee, or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 7121, effective 2/1/77.

Sec. 7122. Compromises.

(a) Authorization.

The Secretary may compromise any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense; and the Attorney General or his delegate may compromise any such case after reference to the Department of Justice for prosecution or defense.

(b) Record.

Whenever a compromise is made by the Secretary in any case, there shall be placed on file in the office of the Secretary the opinion of the General Counsel for the Department of the Treasury or his delegate, with his reasons therefor, with a statement of—

(1) The amount of tax assessed,

(2) The amount of interest, additional amount, addition to the tax, or assessable penalty, imposed by law on the person against whom the tax is assessed, and

(3) The amount actually paid in accordance with the terms of the compromise.

Notwithstanding the foregoing provisions of this subsection, no such opinion shall be required with respect to the compromise of any civil case in which the unpaid amount of tax assessed (including any interest, additional amount, addition to the tax, or assessable penalty) is less than $500.

In '76, P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in Code Sec. 7122, effective 2/1/77.

Sec. 7123. Cross references.

(a) Criminal penalties.

For criminal penalties for concealment of property, false statement, or falsifying and destroying records, in connection with any closing agreement, compromise, or offer of compromise, see section 7206.

(b) Compromises after judgment.

For compromises after judgment, see R. S. 3469 (31 U. S. C. 194).

CHAPTER 75.—CRIMES, OTHER OFFENSES AND FORFEITURES

Subchapter
A. Crimes.
B. Other offenses.
C. Forfeitures.
D. Miscellaneous penalty and forfeiture provisions.

Subchapter A.—Crimes

Part
I. General provisions.
II. Penalties applicable to certain taxes.

PART I.—GENERAL PROVISIONS

Sec.
7201. Attempt to evade or defeat tax.
7202. Willful failure to collect or pay over tax.
7203. Willful failure to file return, supply information, or pay tax.
7204. Fraudulent statement or failure to make statement to employees.
7205. Fraudulent withholding exemption certificate or failure to supply information.
7206. Fraud and false statements.
7207. Fraudulent returns, statements, or other documents.
7208. Offenses relating to stamps.
7209. Unauthorized use or sale of stamps.
7210. Failure to obey summons.
7211. False statements to purchasers or lessees relating to tax.
7212. Attempts to interfere with administration of internal revenue laws.
7213. Unauthorized disclosure of information.
7214. Offenses by officers and employees of the United States.
7215. Offenses with respect to collected taxes.
7216. Disclosure or use of information by preparers of returns.
7217. Civil damages for unauthorized disclosure of returns and return information.

In '76, P.L. 94-455, Sec. 1202(e)(2), added item 7217.

In '71, P. L. 92-178, 316(b), added item 7216.

In '58, P. L. 85-321, added item 7215. (Chapter 78 is effective as set forth in Code Sec. 7851(a)(6)).

Sec. 7201. Attempt to evade or defeat tax.

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

Sec. 7202. Willful failure to collect or pay over tax.

Any person required under this title to collect, account for, and pay over any tax imposed by this title who willfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

Sec. 7203. Willful failure to file return, supply information, or pay tax.

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return (other than a return required under authority of section 6015), keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.

In '68, P. L. 90-364, Sec. 103, deleted "or section 6016" at end of parenthetical phrase, applicable with respect to tax. yrs. begin. after 12/31/67. For special provision on effective date, see Sec. 104 of the P. L., reproduced after Code Sec. 6425.

Sec. 7204. Fraudulent statement or failure to make statement to employees.

In lieu of any other penalty provided by law (except the penalty provided by section 6674) any person required under the provisions of section 6051 to furnish a statement who willfully furnishes a false or fraudulent statement or who willfully fails to furnish a statement in the manner, at the time, and showing the information required under section 6051, or regulations prescribed thereunder, shall, for each such offense, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both.

Sec. 7205. Fraudulent withholding exemption certificate or failure to supply information.

Any individual required to supply information to his employer under section 3402 who willfully supplies false or fraudulent information, or who willfully fails to supply information thereunder which would require an increase in the tax to be withheld under section 3402, shall, in lieu of any other penalty provided by law (except the penalty provided in section 6682), upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both.

In '66, P. L. 89-368 substituted "3402" for "3402(f)" and "other penalty provided by law (except the penalty provided in section 6682)" for "penalty otherwise provided."

Sec. 7206. Fraud and false statements.

Any person who—

(1) Declaration under penalties of perjury. Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter; or

(2) Aid or assistance. Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document; or

(3) Fraudulent bonds, permits, and entries. Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal revenue laws, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in, or connives at such execution thereof; or

(4) Removal or concealment with intent to defraud. Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by section 6331, with intent to evade or defeat the assessment or collection of any tax imposed by this title; or

(5) Compromises and closing agreements. In connection with any compromise under section 7122, or offer of such compromise, or in connection with any closing agreement under section 7121, or offer to enter into any such agreement, willfully—

(A) Concealment of property. Conceals from any officer or employee of the United States any property belonging to the estate of a taxpayer or other person liable in respect of the tax, or

(B) Withholding, falsifying, and destroying records. Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax;

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 3 years, or both, together with the costs of prosecution.

Sec. 7207. Fraudulent returns, statements, or other documents.

Any person who willfully delivers or discloses to the Secretary any list, return, account, statement, or other document, known by him to be fraudulent or to be false as to any material matter, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both. Any person required pursuant to subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104 to furnish any information to the Secretary or any other person who willfully furnishes to the Secretary or such other person any information known by him to be fraudulent or to be false as to any material matter shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

In '80, P.L. 96-603, Sec. 1(d)(5), substituted "subsection (b) or (c) of section 6047 or pursuant to subsection (d) of assets of such corporation in the liquidation of the whole or any part of its capital stock, the Secretary or his delegate shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

"*(b) Reopening of taxable period.*

"Notwithstanding the termination of the taxable period of the taxpayer by the Secretary or his delegate, as provided in subsection (a), the Secretary or his delegate may reopen such taxable period each time the taxpayer is found by the Secretary or his delegate to have received income, within the current taxable year, since a termination of the period under subsection (a). A taxable period so terminated by the Secretary or his delegate may be reopened by the taxpayer (other than a nonresident alien) if he files with the Secretary or his delegate a true and accurate return of the items of gross income and of the deductions and credits allowed under this title for such taxable period, together with such other information as the Secretary or his delegate may by regulations prescribe. If the taxpayer is a nonresident alien the taxable period so terminated may be reopened by him if he files, or causes to be filed, with the Secretary or his delegate a true and accurate return of his total income derived from all sources within the United States, in the manner prescribed in this title."

—P.L. 94-455, Sec. 1204(b)(2), deleted subsec. (e) and added new subsecs. (e) and (f), for action taken under Code Secs. 6851, 6861 or 6862 where the notice and demand takes place after '76. P.L. 94-528, Sec. 2(a), postponed the effective date for this amendment to be for notices and demands taking place after 2/28/77. Prior to amendment, subsec. (e) read as follows:

"*(e) Furnishing of bond where taxable year is closed by the Secretary or his delegate.*

"Payment of taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such taxes if the taxpayer furnishes, under regulations prescribed by the Secretary or his delegate, a bond to insure the timely making of returns with respect to, and payment of, such taxes or any income or excess profits taxes for prior years."

—P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in subsecs. (c) and (d), effective 2/1/77.

In '58 P. L. 85-866 designated existing provisions of subsec. (d) as par. (1) and added opening provisions and par. (2), effective 8/17/54.

PART II.—JEOPARDY ASSESSMENTS

Sec.

6861. Jeopardy assessments of income, estate, gift, and certain excise taxes.

6862. Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.

6863. Stay of collection of jeopardy assessments.

6864. Termination of extended period for payment in case of carryback.

In '74, P.L. 93-406, Sec. 1016(b)(5) substituted "gift, and certain excise taxes" for "and gift taxes" in items 6861 and 6862.

Sec. 6861. Jeopardy assessments of income, estate,, [sic] gift, and certain excise taxes.

(a) Authority for making.

If the Secretary believes that the assessment or collection of a deficiency, as defined in section 6211, will be jeopardized by delay, he shall, notwithstanding the provisions of section 6213(a), immediately assess such deficiency (together with all interest, additional amounts, and additions to the tax provided for by law), and notice and demand shall be made by the Secretary for the payment thereof.

(b) Deficiency letters.

If the jeopardy assessment is made before any notice in respect of the tax to which the jeopardy assessment relates has been mailed under section 6212(a), then the Secretary shall mail a notice under such subsection within 60 days after the making of the assessment.

(c) Amount assessable before decision of Tax Court.

The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 6212(c) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Tax Court. The Secretary may, at any time before the decision of the Tax Court is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Secretary shall notify the Tax Court of the amount of such assessment, or abatement, if the petition is filed with the Tax Court before the making of the assessment or is subsequently filed, and the Tax Court shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

(d) Amount assessable after decision of Tax Court.

If the jeopardy assessment is made after the decision of the Tax Court is rendered, such assessment may be made only in respect of the deficiency determined by the Tax Court in its decision.

(e) Expiration of right to assess.

A jeopardy assessment may not be made after the decision of the Tax Court has become final or after the taxpayer has filed a petition for review of the decision of the Tax Court.

(f) Collection of unpaid amounts.

When the petition has been filed with the Tax Court and when the amount which should have been assessed has been determined by a decision of the Tax Court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary.

(g) Abatement if jeopardy does not exist.

The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of the Tax Court in respect of the deficiency has been rendered or, if no petition is filed with the Tax Court, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and levy or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the 10th day after the day on which such jeopardy assessment is abated.

ATTACHMENT 2

Affidavit

United States of America Southern) ss
Judicial, District of Florida)

I, VERNON H. HAMPTON, JR., state that:

I reside at 6245 N. W. 170th Street, Miami, Florida

I am a Special Agent in the Intelligence Division, Internal Revenue Service and have been so employed for the past 4 years. Prior to that I was employed as a Revenue Officer in the Collection Division of the Internal Revenue Service for approximately five years.

On May 30, 1970 I was assigned to escort Revenue Officer ROBERT McMULLEN in his service of a notice of seizure of the boat, METER MAID III, owned by STUART B. GREENFIELD. It had been alleged that GREENFIELD was a man with a violent temper and had been known to be quite hostile when things did not go his way. At approximately 6:30 A.M. McMULLEN and I were joined by Special Agents RICHARD E. JAFFE and VINCENT M. O'DEA. We approached GREENFIELD, who was standing on the dock next to the vessel at approximately 6:40 A.M. Revenue Officer McMULLEN made demand on GREENFIELD for payment of the tax and when he advised that he could not pay, Revenue Officer McMULLEN exhibited the levy and placed the vessel under seizure.

I had no specific assignment on board the vessel but Revenue Officer McMULLEN had granted the GREENFIELDS, including Mrs. GREENFIELD and two daughters, the opportunity to remove personal property, such as clothing, and perishable food, and I assisted in examining the bags of personal property before they were removed. This was only done so that all personal items could be taken before inventory and to insure that no cash or obvious valuables were removed. By approximately 9:00 A.M. Mrs. GREENFIELD and the two girls had removed enough personal property and food to fill their own car and placed more in the vehicle belonging to a friend, ALBERT BAITCHER, who was present, and they departed very shortly after 9:00 A.M. leaving behind several items of perishable food.

I have been furnished a copy of a document entitled "Affidavit and Motion to Return Documents" submitted by STUART GREENFIELD in connection with his petition to the Tax Court of the United States, Docket No. 6354-70. In his affidavit, GREENFIELD alleges:

1. That "at about 6:00 A.M." (Page 1, P. 2, L. 1) "Suddenly, 4 men leaped aboard." (Page 1, Para. 3, L. 1) "and one of them said: 'We want you and this boat as a start.'"

   Special Agents RICHARD E. JAFFE, VINCENT M. O'DEA and I escorted Revenue Officer ROBERT McMULLEN and he approached GREENFIELD on the dock along side the boat. McMULLEN identified himself, as did each of the Special Agents, and made demand for payments of the outstanding taxes, and presented him with notices of assessment. When GREENFIELD made light of the assessment, McMULLEN advised him he felt the collection of the tax was in jeopardy, presented him with a levy and said the boat was under seizure. Only then did the agents carefully join GREENFIELD, who had in the meantime stepped onto the vessel.

2. That he was not allowed to call his attorney (Page 2, Para. 4, L. 4).

   GREENFIELD never asked if he could call an attorney, but told his wife to go call Attorney BARNEY FLEISCHER. When there was some discussion between Mr. & Mrs. GREENFIELD about how to reach FLEISCHER, GREENFIELD left the vessel with no resistance at 7:05 A.M. to make the call. At 7:25 A.M. GREENFIELD returned to the boat with FLEISCHER and a friend, ALBERT BAITCHER, and all came on board.

3. That "My wife and children were by then crying ..."

   Mrs. GREENFIELD and the children were apparently disappointed because their trip was canceled but at no time was anyone crying. In fact when they were advised that they would be allowed to remove personal belongings they began, in an orderly fashion, packing clothing etc. for return to the car. Mrs. GREENFIELD became more upset at her husband when he went into a screaming tirade about the Government, and tried to calm him.

4. That "they (the agents) said nobody leaves, and when I remonstrated, HAMPTON and JAFFE struck me, ... "(Page 2, Para. 4, Lines 6 & 7)" ... and finally one of them pulled a gun on me. They struck me with their fists in my chest and back and twisted my arm." (Page2, Para. 4, Lines 9, 10 & 11). "Government Agents kept us confined to the boat.. they forcibly searched me, my wife and my children against our wishes, (Page 2, Para. 5, Lines 1, 2, & 3).

When GREENFIELD returned with Attorney FLEISCHER he objected because pictures were made. He was advised that he and his family were perfectly free to leave at any time he wished. GREENFIELD and FLEISCHER went below decks to confer and after a short time entered a small rest room below and were inside for about four or five minutes. When they came out FLEISCHER remained below and GREENFIELD, without speaking a word, started to leave the boat, leaving his family on board to continue packing. At that point I noticed that GREENFIELD's front pants pockets contained prominent bulges which appeared to be folded paper money about ½ to three quarters inch thick. Since I did not recall seeing any bulges earlier it was obvious that GREENFIELD had removed something from the boat. I advised Special Agent JAFFE and then requested that GREENFIELD return to the boat and exhibit the contents of his pockets. He became enraged and began using profanity until quieted by Attorney FLEISCHER. Special Agent JAFFE and I explained to GREENFIELD and FLEISCHER that we did not want to physically search him but would rather he just exhibit the contents of his pockets and if it were not cash or other valuables which were obviously removed from the vessel after seizure he would be perfectly free to remove whatever he had.

FLEISCHER was indecisive and left to make a phone call after advising GREENFIELD to stay on board and "Don't say anything". Special Agent JAFFE tried to reason with GREENFIELD saying it would be better for all concerned to voluntarily exhibit the contents of his pockets.

FLEISCHER returned to the vessel at 8:15 A.M. with Attorney E. DAVID ROSEN. ROSEN said we did not have authority to physically search GREENFIELD and he was going to advise him to leave the boat. I explained to ROSEN that although we had no authority to make a physical search under a mere civil seizure, we were taking the position that GREENFIELD had removed property from the boat before it was examined or inventoried and this amounted to forcible rescue of seized property and under those circumstances we could search GREENFIELD. After much discussion we seemed to be at an impasse and Special Agent JAFFE left to make a phone call for a decision on Internal Revenue Policy as to whether GREENFIELD should be placed under arrest. While JAFFE was gone ROSEN advised GREENFIELD to leave the boat just to see "what they will do". I stood at the end of the boat slip to block the passage and advised ROSEN that I could not allow

GREENFIELD to leave until we at least got a decision. GREENFIELD tried to push past me but ROSEN told him not to physically resist and he stopped. At no time did I touch GREENFIELD with my hands and the only time any contact was made was when he pushed into me. At the advice of FLEISCHER, GREENFIELD jumped by me and across to the main pier. I moved to block the main pier, but GREENFIELD, after talking to ROSEN decided to return to the boat. This was at approximately 8:25 A.M. ROSEN and GREENFIELD climbed to the top of the flying bridge on the boat alone. When they returned 10 or 15 minutes later it was obvious that attorney ROSEN now had a bulge in his pocket which resembled folded paper money. ROSEN's pants were tight fitting with no rear pockets and the bulge was not there previously. It was obvious that if GREENFIELD did have anything of value it was now removed and JAFFE and I decided there was no longer an issue and so advised ROSEN and GREENFIELD.

During this time the family had made numerous unescorted and unimpeded trips to the car with personal effects and at no time did anyone make any effort to stop them or force them to return to the boat. The GREENFIELD family then left the boat with no resistence at about 9:05 A.M.

At no time did I strike anyone nor did I lift my hand to strike anyone. At no time did I observe Special Agent JAFFE or anyone else strike any person. At no time was there a firearm of any type exhibited.

5. That "they ... threw overboard the food and the beer we had purchased for our holiday."

   At no time was anything thrown overboard by me or anyone else. The GREENFIELDS did leave some perishable foods on board but to my knowledge they were properly disposed of by public sale as prescribed by law.

6. That"we were finally released after much abusive language by the Agents of the United States Government," (Page 2, Para. 6, Lines 1 & 2).

   At no time was any agent or representative of the Government anything but polite and courteous to GREENFIELD and his family. No abusive language was used by anyone except GREENFIELD himself. Each agent was sympathetic toward GREENFIELD's family for the embarrassment he (GREENFIELD) had caused and tried to help wherever possible.

AFFIDAVIT

United States of America Southern)
Judicial , District of Florida) ss

I, VINCENT M. O'DEA , state that:

I reside at 10530 S. W. 96th Terrace, Miami, Florida .

I am a Special Agent in the Intelligence Division of the Internal Revenue Service.

On May 30, 1970, Special Agents RICHARD E. JAFFE, VERNON H. HAMPTON, Jr. and I were assigned to escort Revenue Officer ROBERT McMULLEN in his service of a notice of seizure of the boat, METER MAID III, on STUART B. GREENFIELD. We boarded the vessel and served the notice on GREENFIELD at 6:40 A.M. I was assigned to observe Mrs. GREENFIELD and her two daughters who packed and removed a large quantity of food, drinks and personal property. Mr. and Mrs. GREENFIELD and daughters left the boat at about 9:05 A.M., and we left shortly thereafter, leaving the inventory of the boat to revenue officers.

I have been furnished a copy of a document entitled "Affidavit and Motion to Return Documents" submitted by GREENFIELD in connection with his Petition to the Tax Court, Docket No. 6354-70. In this affidavit, GREENFIELD alleges:

1. that suddenly, four men leaped aboard (P.1, Para.3).

   The agents boarded the boat slowly and carefully because the deck of the boat was approximately three feet out and six feet down from the pier. Anyone who would leap aboard would risk a broken leg.

2. that the agents were insolent and used much abusive language (P.2, L.2 & 18).

   The only foul and loud language was used by GREENFIELD when he shouted about his cooperation with the Internal Revenue Service. The agents were polite and never used disrespectful or abusive language to GREENFIELD or any member of his family.

3. that when he asked to call his attorney, an agent said, "You are not going to call anybody" (P.2, L.3).

   After his tirade about cooperation with the I.R.S., GREENFIELD went to the telephone on the pier. At 7:25 A.M., forty-five minutes after we boarded, BERNARD FLEISHER, one of GREENFIELD's attorneys, and ALBERT BAITCHER, a director of METER MAID INDUSTRIES, INC., arrived at the boat. E. DAVID ROSEN, GREENFIELD's other attorney, arrived on the scene at 8:15 A.M.

4. that his wife and children were then crying and he asked the agents to please let his wife and children leave the boat. They said, "Nobody leaves" (P.2, L.5).

   When McMULLEN explained the seizure, he asked the GREENFIELDS to leave, but explained that they could stay and remove any personal property they wanted. The only time Mrs. GREENFIELD and her daughters appeared upset was when Mr. GREENFIELD was shouting his denunciation of the I.R.S. and its agents. She tried to placate GREENFIELD, but at no time did she or her daughters cry.

Vincent M. O'Dea

5. that HAMPTON and JAFFE struck him, and they were hitting him, one in front of him and one in back, striking him with great force, eight or nine times, and finally one of them pulled a gun on him. They struck him with their fists in his chest and back and twisted his arm (P. 2, L.7).

Mr. GREENFIELD was 6'5", weighed about 250 pounds, has a reputation as a hostile and irresponsible character, and was alleged to carry a gun. I did not touch GREENFIELD, and HAMPTON and JAFFE at no time put a hand on him. No one displayed a gun. The largest agent on the scene was 5'10" and 170 pounds.

6. that from 6 in the morning until about noon, the government agents kept them confined to the boat, forcibly searched him and his wife against their protests, and threw overboard the food and beer (P.2, L.13).

The GREENFIELDS were advised that they could leave at any time. They delayed until their attorneys arrived, and they removed all their personal property. They left at 9:05 A.M. JAFFE took pictures of the boat and its contents; it is possible that the GREENFIELDS were in some of these pictures. Nothing was thrown overboard.

Shortly after FLEISHER arrived, he and GREENFIELD went into the head of the boat. When they came out, GREENFIELD had large bulges in the side pockets of his Bermuda shorts, which he did not have when we boarded. As GREENFIELD and FLEISHER attempted to leave the boat, HAMPTON addressed GREENFIELD and asked him to show what he had put in his pockets to cause the bulges. GREENFIELD backed away and refused to show what was causing the bulges. FLEISHER stated that we had no right to search the person of GREENFIELD. When ROSEN arrived, he conferred with JAFFE and HAMPTON. ROSEN stated that we had no right to search GREENFIELD, and directed him to leave the boat. HAMPTON stood at the edge of the pier and blocked GREENFIELD's exit from the pier. Although HAMPTON stood in front of GREENFIELD, he did not put a hand on him. Meanwhile, JAFFE was telephoning for a decision on Intelligence Division policy in this situation. ROSEN and GREENFIELD boarded the boat and climbed to the bridge. After a few minutes they came down. Whatever had caused the bulges in GREENFIELD's pockets apparently had been transferred to ROSEN, whose pockets now bulged. They were permitted to leave. This was the only delay in leaving the boat, and no one was searched.

Vincent M. Oliva

7. that we seized not only the boat but the small purses of his daughters, open bottles of whiskey, personal effects, personal address books, personal papers and books and records (P.2, L.19).

The GREENFIELDS were advised that they could remove any personal property they desired. They removed so much that they filled both their automobiles and Mr. BAITCHER's. The GREENFIELD's Cadillac was so full that his two daughters had to ride with BAITCHER. The girls removed all the unopened liquor from the bar. BAITCHER was going to remove the opened bottles, but changed his mind when JAFFE took a picture of the bottles and him. After the GREENFIELDS left, revenue officers arrived to inventory the boat and its contents. When we left, we took absolutely nothing from the boat.

I have read the foregoing statement consisting of 3 pages, each of which I have signed. I fully understand this statement and it is true, accurate and complete to the best of my knowledge and belief I made the corrections shown and placed my initials opposite each.

I made this statement freely and voluntarily without any threats or rewards, or promises of reward having been made to me in return for it.

(Signature of affiant)

Subscribed and sworn to before me this 6th
day of AUGUST, 1971,
at MIAMI, FLORIDA

Vincent J. Brennan
(Signature)

Special Agent
(Title)
Internal Revenue Service

(Signature of witness, if any)

AFFIDAVIT

United States of America Southern)
Judicial , District of Florida) ss

I, RICHARD E. JAFFE, state that:

I reside at 8255 S. W. 134th Street, Miami, Florida.

1. I have been employed as a Special Agent by the Internal Revenue Service since September of 1956, at Miami, Florida.

2. On the morning of May 30, 1970, I was assigned to accompany and assist Revenue Officer ROBERT McMULLEN in connection with the anticipated seizure by the Government of STUART GREENFIELD's yacht, "METER MAID III". Assigned to work with me were Special Agents VERNON H. HAMPTON and VINCENT M. O'DEA.

3. At 6:50 A.M. the four of us walked up to STUART GREENFIELD at Pier 3, Slip 8, Dinner Key, Miami, Florida, where his yacht was berthed. GREENFIELD, his wife and two teen-aged daughters were apparently loading their boat for a voyage. GREENFIELD looked up and said, "Oh, you've come for the cart", referring to the loading cart he had been using to bring clothing and goods from his Cadillac Eldorado automobile to the boat. McMULLEN identified himself as an I.R.S. Revenue Officer, displayed his credentials and said, "No, sir, we've come for the boat." The rest of us then identified ourselves to GREENFIELD as I.R.S. Special Agents and displayed our credentials. McMULLEN served GREENFIELD with the Notices of Assessment and the levy forms and demanded payment. GREENFIELD looked at the forms and said that the figures were ridiculous, that he had an extension and hadn't even filed his 1969 return yet, so how could he owe so much money.

4. We all got aboard the boat and GREENFIELD said that he wanted to call his attorney, BARNEY FLEISHER, who lived nearby. Mrs. GREENFIELD and her daughter were aboard at this time and as GREENFIELD left to go to the telephone booth on the pier, he met his other daughter returning with some clothing. He told her to take it back to the car as they probably wouldn't be going. When he returned from making his telephone call, GREENFIELD began complaining about his predicament being the result of his cooperating with Special Agent CARLTON's investigation. He then objected as I photographed him in the interior of the boat's cabin. I told him if he didn't like it, he could leave the boat.

5. At 7:25 A.M., REP BARNEY FLEISHER and AL BAITCHER arrived. FLEISHER examined all of the assessment and levy papers with McMULLEN and then asked for and received each agent's credentials from which he made notes. FLEISHER and GREENFIELD then went below and conferred in private down near the head. When they came up, GREENFIELD left the boat and started for the pier when HAMPTON called him back and pointed out that his pockets were now bulging where they were flat before. HAMPTON suggested that GREENFIELD had removed something from on board the boat and placed it in his pockets. HAMPTON demanded to know what it was but GREENFIELD refused to empty his pockets. FLEISHER insisted we had no right to search his client since we had already informed him he was not under arrest. At this point, FLEISHER left the boat to make a telephone call.

Richard E. Jaffe

6. At about 8:15 A.M., Attorney E. DAVID ROSEN arrived. He conferred with FLEISHER and GREENFIELD and then asked if GREENFIELD were under arrest. We told him that he was not, but that in view of the sudden appearance of the bulge in his pockets, we wanted him to empty the contents for inspection before he left the boat. ROSEN insisted that we had no right to search GREENFIELD without placing him under arrest.

7. At this point, I left the boat to call Group Supervisor JOHN A. McRAE to request his advice. While waiting at the booth for him to call back, I observed GREENFIELD and ROSEN huddled together on the flying bridge of the boat with none of our agents in sight. A few minutes later, ROSEN left the boat and approached me in the booth. As he was wearing rather tight fitting pants, I noticed a squarish bulge in his left front pocket where none had been before. I said, "Now that the bulge has been transferred from his pocket to yours, you're claiming attorney-client privilege, right?" He just smiled and asked to use the phone.

8. I realized it was now futile to continue to object to GREENFIELD's departure so I returned to the boat and suggested that he leave. FLEISHER remarked that his client had been restrained illegally. O'DEA was checking the clothing, parcels and personal effects that Mrs. GREENFIELD and her daughters were carrying off the boat. The GREENFIELDS were informed that they could remove any of their personal items such as clothing and food from the boat but none of the marine equipment or fishing tackle. They declined to take the food. It was approximately 9:00 a.m. when the GREENFIELDS, their attorneys and BAITCHER left the boat for the last time. I then photographed the interior and contents of the boat. I then left with the other Special Agents, leaving the contents of the boat to be inventoried by the Revenue Officers.

9. I have been furnished with a copy of an Affidavit and Motion to Return Documents dated June 15, 1971 and signed by STUART GREENFIELD. As indicated below, the following paragraphs of his Affidavit are false and without foundation in fact:

Par. 3	The initial conversation with GREENFIELD occurred on the pier surface and McMULLEN introduced himself and stated his business before we boarded the boat. No one said "We want you and this boat as a start." (See my Par. 3).
Par. 4	GREENFIELD was properly served with the Notices of Assessment and levy forms by McMULLEN. No one told him that this was the United States Government acting in jeopardy and that we didn't need any writ or order. When GREENFIELD asked to call his attorney, no one objected and he left and called him and in due course his attorney arrived. At no time were GREENFIELD's wife or children observed by me to be crying.

Richard E. Jaffe

At no time were they prevented from leaving the boat. At no time did I ever strike, threaten or come into physical contact with GREENFIELD, nor did I observe any other agent do so. Nor did anyone at any time unholster a firearm. GREENFIELD's account of a beating by HAMPTON and me is a complete fabrication as is the remark he attributes to McMULLEN. (See my par.'s 4-8).

Par. 5 At no time were the persons of GREENFIELD, his wife or children searched, either forcibly or otherwise. Personal baggage and parcels removed from the boat by Mrs. GREENFIELD and her children were checked by O'DEA. Photographs were taken by me and GREENFIELD did protest. GREENFIELD was afforded the opportunity of removing his food and beverage provisions but he declined to do so. These were not thrown overboard but were subsequently sold or given away by the Revenue Officer.

Par. 6 There was no abusive language directed at GREENFIELD or anyone else by the Government Agents. The purses belonging to GREENFIELD's daughters were not seized. GREENFIELD declined to remove the whiskey although he was afforded an opportunity to do so. A careful search of the boat failed to disclose the presence of any address books, papers, or books and records. Fishing tackle was seized as boat equipment and subsequently sold by the Government.

I do not recall seeing any binoculars or hearing GREENFIELD assert any such claim.

Par. 7 Since no papers, books or records were found on board the boat, none can be returned.

I have read the foregoing statement consisting of 3 pages, each of which I have signed. I fully understand this statement and it is true, accurate and complete to the best of my knowledge and belief I made the corrections shown and placed my initials opposite each.

I made this statement freely and voluntarily without any threats or rewards, or promises of reward having been made to me in return for it.

Richard E. Jaffe
(Signature of affiant)

Subscribed and sworn to before me this 6th
day of AUGUST, 1971,
at MIAMI, FLORIDA

Vincent J. Brennan
(Signature)

Special Agent
(Title)
Internal Revenue Service

(Signature of witness, if any)

AFFIDAVIT

United States of America Southern)
Judicial , District of Florida) ss

I, R. D. McMULLEN, state that:

I reside at 100 Edgewater Drive, Coral Gables, Florida.

I am a Revenue Officer with the U.S. Treasury Department.

On May 30, 1970, I had been assigned to seize a boat and any property of value, said boat named METER MAID III, owned by STUART B. GREENFIELD. Special Agents RICHARD E. JAFFE, VERNON H. HAMPTON, JR., and VINCENT M. O'DEA were assigned to escort me. We contacted MR. and MRS. GREENFIELD at 6:40 a.m. and properly identified ourselves and read the Notice of Seizure to the GREENFIELDs. We then put a seizure sticker on the side of the boat and asked permission to board it and take inventory.

I have been given a copy of an Affidavit filed by STUART GREENFIELD which is an Affidavit to the Tax Court of the United States in regards to Docket Number 6354-70. In this Affidavit, MR. GREENFIELD alleges --

Item 1. (Para. 3) -- "That suddenly four men leaped aboard." When we first contacted MR. and MRS. GREENFIELD, notices of the jeopardy assessments were given to MR. GREENFIELD after having properly showed my credentials to him and having introduced Special Agents RICHARD E. JAFFE, VERNON H. HAMPTON, JR. and VINCENT M. O'DEA. When the GREENFIELDs stated that they could not pay the assessment, I read the Notice of Seizure to them and stated the boat and equipment was now under seizure by the Internal Revenue Service. At no time did I hear anyone say "We want you and this boat as a start." The Seizure Notice was put on side of boat and the GREENFIELDs were advised that we were boarding to take inventory.

Item 2. (Para. 4) -- MR. GREENFIELD was advised on his first request that if he wished to contact his attorney he could. He waited quite some time before going and doing this, more or less stating that he did not want to leave the boat while the Special Agents and myself were on board. At no time, to my knowledge, did anyone tell MR. GREENFIELD that he could not leave. Special Agents HAMPTON and JAFFE did have words with MR. GREENFIELD but I saw no one hit anyone and no one pulled a gun.

Item 3. (Para. 5) -- The seizure took place on May 30, 1970 at about 6:45 a.m., and the GREENFIELDs left the boat at some time between 9:00 and 9:30 a.m. No one forcibly searched MR. GREENFIELD, his wife or children. There were photographs taken of the boat and its contents as the boat had been seized for non-payment of the aforementioned taxes. As to throwing food and beer overboard, this did not happen. The food and perishables and personal items were allowed to be taken by the GREENFIELDs from the boat prior to their departure. This was witnessed by their Attorney, BARNEY FLEISHER.

Item 4. (Para. 6) -- "The small purses of my daughters with the bits of change therein, open bottles of whiskey, personal effects, personal address books, personal papers and books and records." These items were left on the boat and later given back to attorney representing MR. and MRS. GREENFIELD. This was given to their attorney, SYDNEY SOLTZ, on the 11th day of August, 1970. There were twelve cans of REGAL beer and eight bottles of liquor, seals broken, and various amounts used, and one woman's purse and contents. The woman's purse had been left on the boat by the GREENFIELD's daughter and on two separate occasions we had requested that someone meet with us so that we could return it as it was not under seizure. The liquor and beer we attempted to give to the GREENFIELDs on the morning of the seizure, but they declined to take it. Finally on the morning of the sale of the boat, Attorney SYDNEY SOLTZ signed a Form 668-E, a Certificate of Release of Levy, to acknowledge receipt of same. These items were not seized or inventoried. There were no personal address books, personal papers and books or records to my knowledge. There were fishing poles, fishing reels and binoculars on the boat, but at no time in the two months which these were under seizure, did the GREENFIELDs or their brother-in-law, ROBERT STRANG, come forward with any proof of ownership.

Item 5. -- The boat with its equipment was seized on May 30, 1970, and after seizure was made, inventory was taken, in this, I was assisted by Revenue Officers MORTON FRANKEL and CHARLES BENDER. Perishable goods were sold to the highest bid obtained.

I have read the foregoing statement consisting of 2 pages, each of which I have signed. I fully understand this statement and it is true, accurate and complete to the best of my knowledge and belief I made the corrections shown and placed my initials opposite each.

I made this statement freely and voluntarily without any threats or rewards, or promises of reward having been made to me in return for it.

R. D. McMullen
(Signature of affiant)

Subscribed and sworn to before me this 9th
day of August, 1971,
at Miami, Florida

Morton I. Frankel
(Signature)

Revenue Officer
(Title)
Internal Revenue Service

(Signature of witness, if any)

Request #5

5. Respond to Mr. Robert Graham's eleven specific questions, as contained in his statement, attachment 1, for the record and provide a general statement regarding the range of legal and constitutional issues raised in his statement and accompanying exibits.

The attached fact sheets address the legal and constitutional issues raised against the Federal tax system.

Internal Revenue Service
Public Affairs Division

Fact Sheet 78-1
Revised February 1981

TAX PROTESTERS

Some so-called tax protesters are making speeches and offering seminars around the country at which serious misrepresentations about the tax laws are being presented to the public as fact.

Generally, these protesters are counseling taxpayers not to comply with Federal tax return filing or payment requirements, purporting that these requirements violate the self-incrimination provision of the Fifth Amendment or other constitutional rights.

A taxpayer cannot ignore the Federal income tax return filing statutes on the ground that they violate a person's constitutional rights under the Fifth Amendment. As early as 1927 the Supreme Court of the United States held in United States v. Sullivan, 274 U.S. 259 (1927), that a taxpayer could not refuse to file a Federal income tax return because of the Fifth Amendment privilege against self-incrimination. As late as 1976 the Supreme Court adhered to the Sullivan principle in Garner v. United States, 424 U.S. 648 (1976).

Further, the requirement that a taxpayer include information on the tax return concerning income does not, by itself, violate the self-incrimination clause of the Fifth Amendment as the court noted in United States v. Daly, 481 F.2d 28 (8th Cir.), cert. denied, 414 U.S. 1064 (1973). This case, as well as others, represents an extension of the holding in Sullivan that a taxpayer must do more than file a blank tax return or a tax return with little or no information.

Moreover, in United States v. Carlson, 617 F.2d 518 (9th Cir. 1980), the court held that an individual can not validly refuse to report income on a tax return on the grounds that such reporting would be incriminating with respect to a prior tax violation. In sustaining Carlson's conviction for failure to file a return, the court noted, "In the case before us, Carlson has attempted to take advantage of the privilege's protective capacity to further a calculated effort to avoid the payment of taxes. Although it is true that Carlson actually seeks protection against self-incrimination for his prior tax crime, he does so only as part of an overall plan to evade taxes. The first step of that plan — submitting a false withholding form to his employer — was concealed from the Service by assertion of the Fifth Amendment on Carlson's year-end returns; and the very act of asserting the Fifth Amendment also effectuated the second step of the plan — failing to file meaningful returns that would divulge both his prior misstatement and his overall year-end tax liabilities. In other words, the Fifth Amendment was the linchpin of Carlson's plan to evade the payment of taxes. He used the privilege more as a sword than as a shield." Further, the Court noted, "After weighing the appropriate factors, we conclude that the purpose and history of the privilege against self-incrimination do not compel protection of Carlson's actions, and that the character and

(MORE)

urgency of the opposing revenue interests require that his scheme not be permitted. We therefore hold that an individual who seeks to frustrate the tax laws by claiming too many withholding exemptions, with an eye to covering that crime and evading the tax return requirement by assertion of the Fifth Amendment, is not entitled to the amendment's protection."

Protesters also assert that various provisions of the Internal Revenue laws violate the due process clause of the Fifth Amendment. Generally they claim that the graduated income tax scale and the fact that certain deductions or benefits allowed by the Internal Revenue Code are available to some and not to others deny these latter persons their constitutional rights. The protesters also assert that some of the statutory collection procedures violate the due process clause. However, in Swallow v. United States, 325 F.2d 97 (10th Cir. 1963), cert. denied, 377 U.S. 951 (1964), the court held, "It is now well settled that the income tax laws are not unconstitutional under the due process clause of the Fifth Amendment...."

Federal courts have held in numerous cases that there is no constitutional right to refuse to pay income taxes in whole or part on religious or moral grounds or because the funds are used for government programs that the taxpayer opposes. For example, in Autenrieth v. Cullen, 418 F.2d 586 (9th Cir. 1969), cert. denied, 397 U.S. 1036 (1970), the court said, "The fact that some persons may object, on religious grounds, to some of the things that the government does is not a basis upon which they can claim a constitutional right not to pay a part of the tax."

The courts have also rejected claims that the Sixteenth Amendment, which grants Congress the power to prescribe the current income tax laws, was not properly ratified, thereby upholding the constitutionality of the Federal income tax laws. Basically, protesters allege that the Sixteenth Amendment is invalid because Ohio was not a state at the time of ratification. However, more than enough states ratified this amendment even without Ohio's vote. Furthermore, in 1953 Congress retroactively approved all actions taken by Ohio since 1803. In Porth v. Brodrick, 214 F.2d 925 (10th Cir. 1954), the court dismissed an attack on the Sixteenth Amendment as being "clearly unsubstantial and without merit," as well as "far fetched and frivolous."

Some protesters have offered an argument that income in the form of currency or checks is not subject to tax on the ground that currency is now worthless since the United States is no longer on a gold or silver standard. They also argue that Federal Reserve notes are only accounts receivable and thus are not subject to tax. However, the law taxes "income from whatever source derived," and income may be in many forms, including currency, goods and services. In United States v. Daly, 481 F.2d 28 (9th Cir.) cert. denied, 414 U.S. 1064 (1973), the court, referring to the gold and silver argument, stated, "This contention is clearly frivolous." The court arrived at a similar conclusion in United

(MORE)

States v. Wangrud, 533 F.2d 495 (9th Cir. 1976). Recently the Tax Court in Hatfield v. Commissioner, 68 T.C._____, No. 78 (Sept. 12, 1977), which involved a Fifth Amendment return, dismissed an argument that Federal Reserve notes should not be taxed since they constitute accounts receivable. In its decision the court noted that it considered awarding damages to the United States to be paid by the taxpayer for instituting proceedings before the Tax Court merely for delay. Further the court indicated that it might be appropriate to award damages in future protester cases.

Other protesters repeatedly have raised the argument that the requirement that a taxpayer keep records to substantiate tax return information constitutes slavery. In Porth v. Brodrick, 214 F.2d 925 (10th Cir. 1954), the court held, among other things, that the income tax laws do not constitute slavery.

Some protesters have promoted noncompliance through tax avoidance schemes involving family estate trusts, while others have offered assignments of all income to newly created organizations purporting to be churches, religious orders, or other religious organizations in which the organization acts only as a nominee receiving the assigned income which is then used to pay the donor's living expenses.

Under the family estate plan the individual is advised to assign assets and income from current employment to the trust. The promoters then advise that, in exchange, the creator of the trust may receive "compensation" as an officer, trustee or director, as well as certain "fringe benefits," such as "pension rights," "tax-free use of a residence," and "educational endowments" for children.

According to the promoters, once the creator's income is shifted to the trust, the trust is supposedly taxed only on undistributed net income. The promoters misrepresent that substantially all living expenses of the grantor and his or her family may be deducted on the trust's fiduciary income tax return as business expenses and that the balance might then be distributed to the creator's family or to a separate "nonprofit" educational trust leaving little or no taxable income to be reported.

Several IRS rulings have been published adverse to these schemes, and IRS challenges to these trusts have been upheld in various court cases.

One of the most basic principles of taxation is that income is taxed to the taxpayer earning it. In other words, a person cannot escape the liability to report and pay tax on income of such person that is assigned to another person or entity. Thus, the United States Tax Court has recently rejected taxpayers' arguments that assigning to family trusts all compensation for services of the creator relieved the creator of reporting and paying tax on such compensation.

While the "church" or "religious order" plans vary in certain respects, a common scheme calls for an individual taxpayer to obtain minister's credentials and a church or religious order charter by mail for a fee. No profession of adherence to a creed, dogma, or moral code is required and no duties or fiduciary responsibilities are undertaken in order to receive and administer these charters or credentials. The individual sets up a new organization that purports to be a church, religious order, or other religious organization. The plan then calls for the individual to take a "vow of poverty" and to assign the individual's assets — house, car, savings account, etc. — and the income earned from current employment to the new organization. The income assigned is expended for housing, food, clothing, personal transportation and other living expenses incurred by the individual, and for his or her occassional "spiritual retreats" to traditional vacation areas. Typically, the solicitations conclude that a vow of poverty can make a person rich.

Such representations are misleading and plans of the type described will not produce the tax benefits claimed by their promoters. The tax law affords significant benefits to churches and other religious organizations and to individuals who make gifts or contributions to these organizations. The law requires, however, that organizations claiming these benefits actually be operated for religious purposes and that they not be operated for private purposes.

Under a recently published IRS ruling and established principles of tax law, such an assignment of income whether by an individual claiming to be under a vow of poverty, or otherwise, will not prevent the individual from being taxed on such income. Moreover, when the organization to which income is assigned is not actually organized and operated for religious purposes, the assigned income will not be deductible by the taxpayer. In any event, contributions to an organization are not deductible when made in the expectation of receiving some commensurate benefit in return.

Taxpayers who refuse to file tax returns, file incomplete returns or refuse to pay their taxes claiming constitutional, religious or moral grounds or the lack of a gold and silver standard as a basis for noncompliance can anticipate strict civil and criminal enforcement of the law.

Protest returns filed with the IRS are assigned directly to appropriate enforcement personnel with the legal authority to determine proper tax due and take all steps to assess and collect the tax due. Failure to file tax returns can also result in criminal convictions.

Upon conviction for willful failure to file a tax return, a taxpayer may be fined up to $10,000 and/or be imprisoned up to one year, and upon conviction for willful tax evasion, a taxpayer may be fined up to $10,000 and/or imprisoned as much as five years. In addition to criminal sanctions for failure to file a tax return or pay income taxes, a taxpayer may be subject to penalties of up to 25 percent of the underpayment for failure to file or for filing after the due date, and a penalty of up to 50 percent of the underpayment where civil fraud is involved.

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Internal Revenue Service
Public Affairs Division

Fact Sheet 78-3
Revised February 1981

CONSTITUTIONAL BASIS PROTESTS

Some of the methods used by protesters are the filing of the so-called "Porth-Daly" returns and "Gold Standard" returns, which protest the payment of taxes on constitutional grounds.

In a "Porth-Daly" return case, a taxpayer files an essentially blank income tax return and thereafter refuses to furnish information to the IRS. In lieu of the information required by the Form 1040, the protester will show "-0-," "None," "Object," "Fourth, Fifth and/or Fourteenth Amendment" notations in all the blanks; or will insert "I refuse to pay;" or will include a broad statement of objections based on "constitutional" rights.

The IRS does not consider these to be valid returns and has been successful in prosecuting protesters who file these documents under section 7203, Willful Failure to File a Return or Failure to Supply Information. Conviction for this offense may result in a maximum penalty of a one-year prison sentence and/or a $10,000 fine for each offense.

In United States v. Porth, 426 F.2d 519 (10th Cir.), cert. denied, 400 U.S. 824 (1970), the court commented: "A taxpayer's return which does not contain any information relating to the taxpayer's income from which the tax can be computed is not a return within the meaning of the Internal Revenue Code or the regulations adopted by the Commissioner...." In United States v. Daly, 481 F.2d 28 (8th Cir.), cert. denied, 414 U.S. 1064 (1973), the court indicated that there is no Fifth Amendment privilege to fail to file a return.

Moreover, in United States v. Carlson 617 F.2d 518 (9th Cir. 1980), the court held that an individual cannot validly refuse to report income on a tax return on the grounds that such reporting would be incriminating with respect to a prior tax violation. In sustaining Carlson's conviction for failure to file a return, the court noted, "In the case before us, Carlson has attempted to take advantage of the privilege's protective capacity to further a calculated effort to avoid the payment of taxes. Although it is true that Carlson actually seeks protection against self-incrimination for his prior tax crime, he does so only as part of an overall plan to evade taxes. The first step of that plan — submitting a false withholding form to his employer — was concealed from the Service by assertion of the Fifth Amendment on Carlson's year-end returns; and the very act of asserting the Fifth Amendment also effectuated the second step of the plan — failing to file meaningful returns that would divulge both his prior misstatement and his overall year-end tax liabilities. In other words, the Fifth Amendment was the linchpin of Carlson's plan to evade the payment of taxes. He used the privilege more as a sword than as a shield." Further, the Court noted, "After weighing the appropriate factors, we conclude that the

(MORE)

purpose and history of the privilege against self-incrimination do not compel protection of Carlson's actions, and that the character and urgency of the opposing revenue interests require that his scheme not be permitted. We therefore hold that an individual who seeks to frustrate the tax laws by claiming too many withholding exemptions, with an eye to covering that crime and evading the tax return requirement by assertion of the Fifth Amendment, is not entitled to the amendment's protections."

The so-called "Gold Standard" return is similar to the "Porth-Daly" return in that it is an essentially blank Form 1040, devoid of financial information. The protesters who advocate the filing of a gold standard return argue that the Federal Reserve System is unconstitutional and therefore so is the Internal Revenue Code to the extent it taxes income represented by Federal Reserve notes or checks that are not redeemable in gold or silver. They further argue that Federal Reserve notes are not legal tender.

These arguments have been consistently rejected by the court as being frivolous or "without merit," as in United States v. Gardiner, 531 F.2d 953 (9th Cir.), cert. denied, 429 U.S. 853 (1976).

Request #6

6. Provide the Subcommittee with a complete background and explanation of the case of Mrs. Irene Hanson including a description of her complaint and documentation of how her complaint was handled, including any relevant internal audit or internal security reports.

Mrs. Hanson claims she was treated in a threatening and hostile manner; that she was interrogated about being an enrolled agent or CPA; and that the employees' actions put her in fear of bodily harm.

Mrs. Hanson initially complained to the Dallas District in August 1979. The District Director responded to Mrs. Hanson by letter dated September 20, 1979, Attachment #1, informing Mrs. Hanson that as a result of the review of the complaint, no action would be taken against the employees. Mrs. Hanson filed another complaint with the Regional Commissioner, Dallas, on October 5, 1979, Attachment #2, who forwarded it to the Internal Security Division.

Mrs. Hanson complained that three Revenue Officers from the Mesquite, Texas office intimidated and harassed her when she appeared for a conference with another taxpayer, who was appearing in response to a summons. Mrs. Hanson stated that her reason for appearing with the taxpayer was to determine whether or not the taxpayer's constitutional rights were being violated.

Mrs. Hanson was associated with the Ad Hoc Committee to Investigate the Federal Grand Jury, whose purpose, she stated, was to compile information on abuses committed by the IRS against U.S. citizens for submission to the appropriate Federal Grand Jury.

Investigations were completed on each of the three Revenue Officers. The complaint was not substantiated and each employee received a letter of clearance on March 6, 1980. Copies of the Reports of Investigation are contained in Attachment #3.

Mrs. Hanson subsequently alleged in a letter to the Inspector General, Department of Treasury, on April 10, 1982, Attachment #4, and in her testimony to the Committee on April 26, 1982 that she was falsely arrested by U.S. Marshals on December 6, 1979, at the behest of the IRS.

During a tax trial in December 1979, the court reporter noticed that a juror was associating with a trial spectator. The court reporter notified the Assistant United States Attorney prosecuting the case, who in turn requested three Criminal Investigation Division Special Agents to observe the spectator's (Mrs. Hanson) activities. The IRS employees observed Mrs. Hanson and the juror having lunch together at the local Holiday Inn and furnished photographs of the incident to the Judge.

No mistrial was declared based on the juror's assurance that he could decide the case based on the facts and the taxpayer was subsequently convicted.

An article in the Dallas Times Herald on December 7, 1979, Attachment #5, reported that at a tax protester trial, prosecutors introduced testimony that a juror had been fraternizing with a trial spectator described as a friend of the taxpayer on trial and a sympathizer to his cause. The spectator, Mrs. Hanson, was arrested by U.S. Marshals for part of the day when she refused to answer any questions about her relationship with the juror and she ignored an order to attend a hearing.

Four witnesses, according to the article, including three IRS agents and a court reporter, testified they had seen the juror with Mrs. Hanson on three occasions and once with others close to the taxpayer on trial. Two of the witnesses said they saw the juror with his arm around Mrs. Hanson. The juror acknowledged that he had talked with Mrs. Hanson and had lunch with her. Mrs. Hanson's husband indicated to the press that he and his wife were sympathetic to the taxpayer's cause and that they had been active in a movement that seeks to impeach the presiding Judge.

The Inspector General forwarded the complaint to the Assistant Commissioner (Inspection) Internal Revenue Service, on April 22, 1982 for review. The Assistant Commissioner (Inspection) responded to the Inspector General on May 3, 1982, Attachment #6, advising him that the complaint had been reviewed and was found to contain no information of interest to Inspection. The Inspector General was also advised that the Service was preparing a response to the Subcommittee pertinent to Mrs. Hanson's complaint.

ATTACHMENT #1

Internal Revenue Service
District Director

Department of the Treasury
1100 Commerce St. Dallas Texas 75242

Date: SEP 20 1979

Ms. Irene C. Hanson
Ad Hoc Committee to Investigate the
Federal Grand Jury
1434 W. Alabama Street
Houston TX 77006

Dear Ms. Hanson:

Your formal complaint against Mr. Don Williams, a Revenue Officer in our Mesquite office, has been forwarded to us for response.

We have discussed this matter at length with Mr. Williams, and do not believe his actions violated Mr. [redacted] constitutional or human rights. Therefore, no action will be taken against Mr. Williams in this case.

The Congress of the United States enacted the Internal Revenue laws and cites them in the Internal Revenue Code of 1954. Congress charged the Internal Revenue Service with the responsibility of administering the tax laws of the United States. We regret that you construe our attempt to meet our responsibilities as a violation of an individual's constitutional and human rights.

Sincerely yours,

A. W. McCanless

A. W. McCanless
District Director

RECEIVED
OCT 10 1979
ARC-COL SWR

EXHIBIT LIST SHEET

NUMBER	DESCRIPTION
1.	Copies of (1) Letter dated 10-05-79 from Mrs. IRENE HANSON to the Regional Commissioner, IRS, Southwest Region, Dallas, Texas. (2) Formal complaint dated 09-13-79 from [redacted] (3) Formal complaint dated 08-20-79 from IRENE HANSON. (4) Letter dated 09-20-79 from A.W. McCANLESS, IRS Dallas District Director.
2.	Copy of December 7, 1979, Dallas Times Herald Newspaper article entitled "Fraternization with Juror Claimed in Tax Trial."

WILLIAMS, DONALD R.
6-1079-0148

AD HOC COMMITTEE TO INVESTIGATE THE FEDERAL GRAND JURY

1434 WEST ALABAMA
HOUSTON, TEXAS 77006
(713) 521-9896

Houston Section

To Coll.

October 5, 1979

Regional Commissioner
Internal Revenue Service
Dallas, Texas 75242

Dear sir:

Enclosed is a copy of District Director McCanless' response to the complaint against Mr. Williams and Miss Davis filed by me. Mr McCanless does not respond to our complaint.

Our complaint stated as its cause acts of mistreatment by Agents Williams and Davis that constitute assault.

Since Mr. McCanless choses to totally ignore the basis for our complaint we are requesting that your office inquire into this allegation of assault.

Since this complaint was filed in the Dallas Division, please make all further responses to the Dallas Division Chairman of this Committee, Mr. Felix G. Botello, P.O. Box 17548, Dallas, Texas 75217.

Sincerely,

Mrs. Irene Hanson
Complainant

CERTIFIED MAIL NO. 745987

Mr. Westfall: Please note [illegible] [illegible] in [illegible]
"[illegible]."

RECEIVED
OCT 10 1979
ARC-COL SWR

TO: (appropriate commission)
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FROM: (complainant
Name and addr.
(
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(

FORMAL COMPLAINT

Complaints regarding Constitutional violations and/or violations pertaining to Human rights .

TYPE OF COMPLAINT:

Name of Civil Service Representative: LARRY RUSHING [illegible]
Address: INTERNAL REVENUE SERVICE OFFICE
3434 Hwy 67 E [illegible], C-301, Mesquite, Tex 7515[illegible]
Telephones:
Home: ____________________
Office: ____________________
Employer:
INTERNAL REVENUE SERVICE
Supervisor:
____

Describe briefly the violation :
Please start with Date: July 3[illegible], 1979
Time: 10 A.M.

I had a conference with IRS agent Jackie Davis, and Mr. Rushing was called in to witness & [illegible] Mr. Davis present me. After a short discussion, Mr. Rushing proceeded to threaten me as follows, I would be in [illegible] if I didn't cooperate, it would cost me a lot more in the long run if I didn't file a return right now.
(other page)

[redacted]
SIGNATURE

AFFADAVIT
The undersigned, being duly sworn , deposes and states as follows:
That he (he-she) is the person in the above mentioned incident and that the same is true and correct to the best of his (his-her) knowledge and belief.

[redacted]
Signature

STATE OF TEXAS
COUNTY OF DALLAS
Subscribed and sworn to before me, the undersigned Authority, on this the 13 day of Sept, 1979.

H. T. [illegible]
Notary Public

My Commission expires:
8-31-1980

Please prepare three copies: Send one to the appropriate Civil Service Commission, send one copy to The Hispanic-American Law Institute for studies and reports. KEEP ONE COPY FOR YOUR PERSONAL FILE.

Hispanic-American Law Institute, P.O. Box 17548, Dallas, Texas

For applications and personnel:

DALLAS CITY CIVIL SERVICE COMMISSION
2026 Main Street
Dallas, Texas 75201

For Complaints and grievances:
ADMINISTRATIVE OFFICES, Attention: Mr. J. W. Jones Jr.
Dallas City Civil Service Commission Phone: 670-3748
1500 Marilla Street
Room 7-A North
Dallas, Texas 75201
This Board is composed of Five Tax-Paying Citizens, appointed by the City Council in August or September for a two year period. It includes a Chairman, a Vice Chairman, and the Secretary of the Board has no vote. The Secretary is a sixth person on the Brd.

****

THE DALLAS COUNTY CIVIL SERVICE COMMISSION
500 Main Street Phone: 749-8637
Room 102
Dallas, Texas 75202

This commission is composed of three Dallas County Commissioners.
Currently serving are: Jim Tyson, Chairman
Jim Jackson
Roy Orr

****

FEDERAL CIVIL SERVICE COMMISSION Phone: 749-7721
DALLAS AREA OFFICE FOR APPEALS AND GRIEVANCES
1100 Commerce Street
Dallas, Texas 75242

Mr. Rushing told me, I would go before a Judge and he would put me in Jail. He again told me the I.R.S. would take me to Court and it would cost me a lot more besides a prison term, If I didn't cooperate with them and file a return now.

TO: (appropriate commission)
(Office of Personnel Management
(Investigations Division
(1100 Commerce Street
(Dallas, Texas 75242

FROM: (complainant)
Name and address
(Ad Hoc Committee to
(Investigate the Federal
(Grand Jury,
(Irene C. Hanson
1434 West Alabama St.
Houston, Texas 77006

FORMAL COMPLAINT

Complaints regarding Constitutional violations and/or violations pertaining to Human rights,

TYPE OF COMPLAINT: Constitutional and Human Rights violation.

Name of Civil Service Representative: Don Williams, Revenue Officer
Address: Town East Office Park, 3434 Hwy. 67 East
Mesquite, Tx. 75150
Telephones:
Home:
Office: 270-7673
Employer:
Internal Revenue Service
Supervisor:
unknown

Describe briefly the violation:
Please start with Date: Monday, [illegible] 13, 1979
Time: 10:10 a.m.

On Monday, August 13, 1979, I, I[illegible]on accompanied [redacted] to a meeting with the [illegible] Service at Town East Office Park, 3434 Hwy. 67 East [illegible]s. [redacted] had received an Internal Revenue Servic[illegible]ative summons to bring his books and records to the Interna[illegible]rvice office.

[illegible]tinued on page 2)

[illegible]URE

AFFADAVIT

The undersigned, being duly sw[illegible], deposes and states as follows:
That she (he-she) is the perso[illegible] in the above mentioned incident and that the same is true and correct to the best of her (his-her) knowledge and belief.

Irene C Hanson
Signature

STATE OF TEXAS
COUNTY OF DALLAS

Subscribed and sworn to before me, the undersigned authority, on this the 20th day of August, 1979.

Notary Public

My Commission expires:
1-15-80

Please prepare three copies: Send one to the appropriate Civil Service Commission, send one copy to The Hispanic-American Law Institute for studies and reports. KEEP ONE COPY FOR YOUR PERSONAL FILE.

Hispanic-American Law Institute, P.O. Box 17548, Dallas, Texas

Continued from page 1:

Mr. [redacted] went to the Internal Revenue Service office on this day in response to the Internal Revenue Service Administrative summons, and I, at his request, accompanied him in my capacity as a member of the Ad Hoc Committee to Investigate the Federal Grand Jury. The Ad Hoc Committee is presently compiling information on abuses committed by the Internal Revenue Service against U. S. Citizens for submission to the appropriate Federal Grand Jury.

At about 10:10 a.m., Jackie R. Davis, Revenue Officer, appeared with Larry Rushing. Agent Davis asked for my full name when Mr. [redacted] introduced me to to. I responded by showing my identification card for the Ad Hoc Committee. Mr. Rushing took the identification card I showed them and left the alcove where Mr. [redacted] and I were waiting. It is my belief that Mr. Rushing made a copy of my identification card without the permission of either the Ad Hoc Committee or myself. Agent Davis wanted to get on with the conference, but I said that first my identification card needed to be returned to me. Mr. Rushing did not rejoin the conference. Instead after Agent Davis returned my card, a Don Williams, Revenue Officer, came to the alcove where Mr. [redacted] and I were waiting for the conference to begin. Agent Williams proceeded to interrogate me on whether I was an agent enrolled to practice before the Internal Revenue Service, a member of the Bar licensed to practice before the IRS, a c.p.a., etc. To all of these questions, I replied that I was there to witness what happened to Mr. [redacted] in conference with the IRS, and whether or not his Constitutional Rights were violated, and that I was there at Mr. [redacted] request. At no time did any of the agents ask Mr. [redacted] if he was waiving his right to confidentiality under 26 U.S.C. 6103 with regard to me, as they are required to do. Agent Williams said, "That card (my identification card) is nothing." Agent Williams said that I could not be included in the conference as a witness.

Agents Davis and Williams tried to get Mr. [redacted] to follow them to a room in the back of the building without me. I told both agents that I would remain with Mr. [redacted] as long as Mr. [redacted] wanted my presence. At this point Mr. [redacted] realizing that I would physically be kept from staying with him as a witness to his interrogation, stated that he would not witness against himself, asserting his Fifth Amendment Right.

At this, Agent Williams said in a threatening manner, "Are you refusing to answer the summons?" Mr. [redacted] said no, he was not refusing to answer the summons. This was the reason he came to the IRS office on this day. Since I had remained beside Mr. [redacted] and showed no signs of leaving the public building that is the IRS office, Agent Williams addressed me in a manner that could only be described as threatening and hostile. He spoke in a cold, menacing voice to me and said, "Are you refusing to leave?" I was frightened! His actions and manner put me in fear of bodily harm. I did not know what this man was capable of doing; I do know IRS Agents carry weapons. Agent Williams manner was so menacing that Mr. [redacted] interposed himself between us in a protective manner.

Neither Mr. [redacted] nor I wanted to precipitate the harm Agent Williams intended toward us. I repeated that I was not refusing to leave and neither was Mr. [redacted] refusing to answer the summons. I said it was up to Mr. [redacted] whether I stayed with him or not. Mr. [redacted] said, "I want you to stay with me but I don't want to get you into trouble." I feared also that if I remained at Mr. [redacted] side, Agents Williams and Davis would maliciously and untruthfully say that Mr. [redacted] had not answered the summons. I was placed in a dilemma: If I stayed with Mr. [redacted], he would be accused of not responding to the summons, if I left Mr. [redacted]

Continued from page 2:

he would be without a witness to the treatment accorded him by the IRS. The proceeding happenings left no doubt in my mind what kind of treatment Mr. [redacted] would receive. The IRS agents wanted to be sure there was no witness as they violated Mr. [redacted] Constitutional Rights. A secret room was where they could best carry on this badgering of Mr. [redacted] with no witness to hamper them.

I asked Agent Williams what law stated that I could not accompany Mr. [redacted] into the conference. Agent Williams never responded by citing any applicable law, only repeating that a licensed attorney (member of the Bar) or an agent enrolled to practice could counsel Mr. [redacted]. Mr. [redacted] and I responded that I was there as a witness to observe if his Constitutional Rights were upheld. I pointed out that I was not any of these others, c.p.a., agent enrolled, etc., but I certainly did know the Constitution. I said counsel meant someone Mr. [redacted] trusted not a member of the Bar. I said Mr. [redacted] could be counseled by any one of his choice not necessarily a member of the Bar.

Agent Williams said Mr. [redacted] could have a few minutes to call a licensed attorney. Neither Mr. [redacted] or I know a licensed attorney to call that could be depended upon to honor the Constitution and defend Mr. [redacted] against the depredations of the IRS.

Before I left for the front office and Mr. [redacted] went with the agents, Davis and Williams, I asked once more if Mr. [redacted] really wanted me to leave. (After Mr. [redacted] and I left the building, and we could speak freely, he confided to me that he was afraid the IRS agents were going to pick me up bodily and throw me off the premises). He said he wanted me to stay but even more he was afraid of what the IRS might do to me. Whatever took place afterwards back in that secret hearing; whatever Mr. [redacted] said, was under duress and without counsel. Further, since he had no witness in his defense, any testimony Agents Davis or Williams might give should be looked at askance. Both Agents Davis and Williams warned us that there would be no tape recording made of the conference. The Irs agents believe they can say anything with impunity. If Mr. [redacted] should say their testimony is untrue, he has no witness to corroborate him.

Agent Davis never responded to Agent Williams threatening posture toward me. She never took one step to correct what Agent Williams was saying or doing. I can only believe by her actions that in spite of having taken an oath to uphold the Constitution, she was a willing party to the violations of Mr. [redacted] Constitutional Rights.

Because of Agent Don Williams hostile, arrogant and menacing manner, it is respectfully requested that this Office of Personnel Management hold a hearing concerning the conduct of Agent Don Williams and Agent Jackie R. Davis, and that upon such hearing recommend that Agent Don Williams be terminated from the employment of the Federal Government, and that Agent Jackie R. Davis be suspended from employment for 30 days and ordered to be retrained.

Irene C. Hanson

cc:

Select Committee on Intelligence
Human Rights Commission, U. N.
Department of Justice, Criminal Division
Hispanic-American Law Institute

Dallas Times Herald 10/1/79

Fraternization with juror claimed in tax trial

By FRANK CLIFFORD

Staff Writer

In a stormy hearing in federal court Thursday, prosecutors in the month-old tax protest trial of John H. Murfin introduced testimony that one of the jurors had been fraternizing with a trial spectator described as a friend of Murfin and a sympathizer with his cause.

U.S. District Court Judge Sarah T. Hughes later indicated that she might declare a mistrial, even though the juror, I. J. Thornton, insisted his conversations with the spectator, Irene Hanson, had nothing to do with the Murfin case.

During the hearing Thursday, Mrs. Hanson, who was put under arrest for part of the day and eventually released, refused to answer any questions about her feelings for Murfin or her relationship with Thornton. Mrs. Hanson said she was invoking her right under the 5th Amendment of the Constitution not to testify against herself.

Mrs. Hanson was placed under arrest after she ignored an order by federal marshals to attend the hearing, said Asst. U.S. Atty. Dan Guthrie, the prosecutor in the Murfin case.

Bruce Hanson, who identified himself as her husband, said outside the courtroom that he and his wife were sympathetic to Murfin's cause, and that they have been active in a movement that seeks to impeach Judge Hughes.

Murfin is on trial on charges he failed to file federal income tax returns over a recent three-year period. Murfin, whose wife has been convicted of the same offense, takes the position that filing and paying the taxes are unconstitutional. He and his wife are among more than a score of people in this area who have been charged with similar offenses and who have become known as tax protesters.

Two weeks ago the U.S. Attorney's office here disclosed it was conducting an investigation into the possibility that threats made against the life of Judge Hughes were related to criminal cases being brought against tax protesters. Up to now, no arrests have been made, but federal authorities say the investigation is continuing.

During the hearing, Murfin's lawyer, Joe Izen of Houston, told Judge Hughes that she was being used by federal prosecutors in a judicial proceeding that amounted to an illegal "inquisition".

"Please don't disgrace the federal district court," Izen told her, his voice cracking. "They say you are old and senile. Don't let them do it to you."

The 83-year-old judge said nothing. But Asst. U.S. Atty. Shirley Baccus-Lobel, who was helping Guthrie, spoke up.

"This has gone just about far enough," she said to Izen.

Later, the judge summoned Izen to the bench and told him his conduct was "despicable".

After the hearing, Izen maintained that his outburst was motivated by a genuine affection for the judge.

Izen's legal assistant, Joseph "Dale" Robertson, also resorted to harsh words when he was called to the witness stand to answer questions from Guthrie about Mrs. Hanson's conversations with the juror, Thornton.

Like Mrs. Hanson, Robertson invoked the 5th Amendment, but his silence did not preclude a barrage of insults at Guthrie.

"I see you radiating a base evil that exceeds any evil I have read about in history," Robertson said to Guthrie.

After the hearing Robertson apologized to Guthrie.

Under questioning by Judge Hughes, juror Thornton acknowledged that he had chatted with Mrs. Hanson and had eaten lunch with her this week.

He said that at first he thought she was a member of the news media because she was taking notes during the trial, but eventually realized that she was friendly with people allied with the defendant. But Thornton insisted he had not discussed the case with her and would not be swayed in his deliberations.

Four witnesses, including three U.S. Internal Revenue Service agents and a court reporter, testified they had seen Thornton with Mrs. Hanson on three occasions, once in the company of others close to Murfin. Two of the witnesses said they saw Thornton with his arm around Mrs. Hanson's waist.

Judge Sarah T. Hughes

ATTACHMENT #3

Inspection Referral Memorandum

Please prepa
See reverse for instructions

1. Address of appointing or receiving official
Regional Commissioner
Southwest Region

2. Case Number
6-1079-0146

3. Date forwarded
JAN

4. Name of subject
DAVIS, JACQUELINE R.

5. Date of birth
09-25-31

6. Position
Revenue Officer, GS-9

7. Office
DDIR - Dallas

8. Status
A. ☐ Applicant - Commitment date
B. ☒ Employee - EOD date 10-27-69

9. Action on criminal features

10. Result of investigation - Inspection report attached

A. ☐ Character or Security
  1. ☐ Final
  2. ☐ Preliminary (see instructions)
  3. ☐ Supplemental
  4. ☐ Information

B. ☐ Special Inquiry *(Misc.)*
  1. ☐ NACI
  2. ☐ Preemployment
  3. ☐ Post appointment
  4. ☐ Other
  5. ☐ Preliminary *(see instructions)*
  6. ☐ Information

C. ☒ Conduct
  1. ☐ Preliminary *(See instructions)*
  2. ☒ Final

D. ☐ Other
  1. ☐

11. Remarks

12. Signature and title of inspection official
Albert C. [illegible]
Branch Chief
(Internal Security)

13. Address of inspection office
7839 Churchill Way, LB-82
Dallas, Texas 75251

14. Date returned
03-06-80

15. Nature of action taken and effective date
Clearance letter dated 03-06-80

16. Signature and title of returning official
Fischer
D. Fischer, Chief, Collection Division

17. Office
Dallas District

Form **2076** (Rev. 3-76) *Dispose of all prior issues. Replaces Form 1853, which is obsolete.*

Department of the Treasury - Internal Revenue Service

Internal Revenue Service

District
Director

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: MAR - 6 1980

Jacqueline R. Davis
Revenue Officer
3434 Highway 67E
Mesquite, Texas 75150

Dear Ms. Davis:

The Internal Revenue Service has recently completed an investigation into an allegation that you intimidated and harassed a taxpayer.

I am pleased to inform you that the investigation disclosed no basis for the allegation. Therefore, this matter is considered closed with the issuance of this clearance letter. I trust you understand this investigation was necessary in your behalf as well as that of the Internal Revenue Service.

If you would like a copy of this letter placed in your Official Personnel Folder, please so indicate by signing the enclosed copy and returning it to the Personnel Branch, Employee Relations, Code 403. Otherwise, a copy will not be placed in your folder.

Sincerely,

J. Fischer
Chief, Collection Division

Enclosure

Inspection Referral Memorandum

Please prepare in quadruplicate.
See reverse for instructions

1. Address of appointing or receiving official

Regional Commissioner
Southwest Region

2. Case Number
6-1079-0147

3. Date forwarded
JAN 80

4. Name of subject
RUSHIN, LARRY JOE

5. Date of birth
04-07-47

6. Position
Revenue Officer, GS-11

7. Office
DDIR-Dallas

8. Status
A. ☐ Applicant - Commitment date ______
B. ☒ Employee - EOD date 05-12-75

9. Action on criminal features

10. Result of investigation - Inspection report attached

A. ☐ Character or Security
  1. ☐ Final
  2. ☐ Preliminary *(see instructions)*
  3. ☐ Supplemental
  4. ☐ Information

B. ☐ Special Inquiry *(Misc.)*
  1. ☐ NACI
  2. ☐ Preemployment
  3. ☐ Post appointment
  4. ☐ Other
  5. ☐ Preliminary *(see instructions)*
  6. ☐ Information

C. ☒ Conduct
  1. ☐ Preliminary *(See instructions)*
  2. ☒ Final

D. ☐ Other
  1. ☐

11. Remarks

12. Signature and title of Inspection official
Branch Chief
(Internal Security)

13. Address of Inspection office
7839 Churchill Way, LB-82
Dallas, Texas 75251

14. Date returned
03-06-80

15. Nature of action taken and effective date

Clearance letter dated 03-08-80.

16. Signature and title of returning official
Fischer
B. Fischer, Chief, Collection Division

17. Office
Dallas District

Form **2076** (Rev. 3-76) *Dispose of all prior issues. Replaces Form 1853, which is obsolete.*

Department of the Treasury - Internal Revenue Service

Internal Revenue Service

District
Director

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: MAR - 6 1980

Larry Joe Rushin
Revenue Officer
3434 Highway 67E
Mesquite, Texas 75150

Dear Mr. Rushin:

The Internal Revenue Service has recently completed an investigation into an allegation that you intimidated and harassed a taxpayer.

I am pleased to inform you that the investigation disclosed no basis for the allegation. Therefore, this matter is considered closed with the issuance of this clearance letter. I trust you understand this investigation was necessary in your behalf as well as that of the Internal Revenue Service.

If you would like a copy of this letter placed in your Official Personnel Folder, please so indicate by signing the enclosed copy and returning it to the Personnel Branch, Employee Relations, Code 403. Otherwise, a copy will not be placed in your folder.

Sincerely,

D. Fischer
Chief, Collection Division

Enclosure

Inspection Referral Memorandum

Please prepare in quadruplicate.
See reverse for instructions

1. Address of appointing or receiving official
Regional Commissioner
Southwest Region

2. Case Number
6-1079-0148

3. Date forwarded
JAN 23 1980

4. Name of subject
WILLIAMS, DONALD R.

5. Date of birth
10-13-43

6. Position
Revenue Officer, GS-12

7. Office
DDIR - Dallas

8. Status
A. ☐ Applicant - Commitment date ____________
B. ☒ Employee ; EOD date 01-19-70

9. Action on criminal features

10. Result of investigation - Inspection report attached

A. ☐ Character or Security
  1. ☐ Final
  2. ☐ Preliminary *(see instructions)*
  3. ☐ Supplemental
  4. ☐ Information

B. ☐ Special Inquiry *(Misc.)*
  1. ☐ NACI
  2. ☐ Preemployment
  3. ☐ Post appointment
  4. ☐ Other
  5. ☐ Preliminary *(see instructions)*
  6. ☐ Information

C. ☒ Conduct
  1. ☐ Preliminary *(See instructions)*
  2. ☒ Final

D. ☐ Other
  1. ☐

11. Remarks

12. Signature and title of inspection official
Branch Chief
(Internal Security)

13. Address of inspection office
7839 Churchill Way, LB-82
Dallas, Texas 75251

14. Date returned
03-06-80

15. Nature of action taken and effective date
Clearance letter dated 03-06-80.

16. Signature and title of returning official
D. Fischer, Chief, Collection Division

17. Office
Dallas District

Form **2076** (Rev. 3-78) *Dispose of all prior issues. Replaces Form 1853, which is obsolete.*

Department of the Treasury - Internal Revenue Service

Internal Revenue Service
Department of the Treasury

District
Director

1100 Commerce St., Dallas, Texas 75242

Date: MAR - 6 1980

Mr. Donald R. Williams
Revenue Officer
3434 Highway 67E
Mesquite, Texas 75150

Dear Mr. Williams:

The Internal Revenue Service has recently completed an investigation into an allegation that you intimidated and harassed a taxpayer.

I am pleased to inform you that the investigation disclosed no basis for the allegation. Therefore, this matter is considered closed with the issuance of this clearance letter. I trust you understand this investigation was necessary in your behalf as well as that of the Internal Revenue Service.

If you would like a copy of this letter placed in your Official Personnel Folder, please so indicate by signing the enclosed copy and returning it to the Personnel Branch, Employee Relations, Code 403. Otherwise, a copy will not be placed in your folder.

Sincerely,

D. Fischer
Chief, Collection Division

Enclosure

RI:SWR:IS:lw

REPORT OF INVESTIGATION

(Assistant Commissioner (Inspection) - Washington, D. C. 20224)

OFFICE OF ORIGIN: Southwest Region

DATE OF THIS REPORT: JAN 21 1980

TITLE (Name and address): WILLIAMS, DONALD R.
[redacted]

TYPE OF INVESTIGATION: Conduct

TYPE OF REPORT: ☒ FINAL ☐ COLLATERAL ☐ PRELIMINARY ☐ SUPPLEMENTAL

DATE OF BIRTH: [redacted]

☒ EMPLOYEE ☐ APPLICANT ☐ NONEMPLOYEE

PLACE OF BIRTH: [redacted]

POSITION AND GRADE: Revenue Officer, GS-12

HEADQUARTERS (City): DDIR - Dallas

DATE ENTERED ON DUTY: 01-09-70

POST OF DUTY: Mesquite, Texas (Collection Division)

PERIOD OF INVESTIGATION: 10-19-79 / 12-07-79

SYNOPSIS

Complainant alleged she was harassed and intimidated by employee when she accompanied taxpayer to IRS Office. Interviews of employees present on date of incident resulted in no evidence of employee misconduct. Complainant, identified as associate of known tax protestors, was arrested by U.S. Marshals during course of tax protestor trial in U.S. District Court. [redacted]

DISTRIBUTION	NO.
AC (Inspection)	2
Regional Inspector	1
Investigations Branch	
Other (Specify)	

"UNKNOWN" CASE SERIAL NO.: 6-1079-0148

SIGNATURE OF INSPECTOR MAKING REPORT: Frank E Kuss
FRANK E. KUSS

SIGNATURE OF PERSON EXAMINING AND FORWARDING REPORT:

DATE EXAMINED AND FORWARDED: JAN 21 1980

TITLE: Group Manager
(Internal Security)

OFFICE (City): DALLAS, TEXAS

BASIS FOR INVESTIGATION

This investigation is based on a letter dated October 5, 1979, from Mrs. IRENE HANSON to the Regional Commissioner, Internal Revenue Service, Dallas, Texas. In the letter and attachments, Mrs. HANSON alleges that DONALD R. WILLIAMS, Revenue Officer, was one of three IRS employees who harassed and intimidated taxpayer [redacted] and her.

ALLEGATION

A-1 - Intimidation and Harassment of taxpayer by employee.

Inspection Report Sheet

On October 17, 1979, a memorandum dated 10-06-79, from LARRY G. WESTFALL, Assistant Regional Commissioner, Collection Division, Southwest Region was received by the Office of Regional Inspector, Southwest Region. This memorandum transmitted copies of:

1) Letter dated 10-05-79, from Mrs. IRENE HANSON, Complainant to the Regional Commissioner, Internal Revenue Service, Dallas, Texas.

2) Formal complaint dated 09-13-79 from [redacted]

3) Formal complaint dated 08-20-79 from IRENE HANSON.

4) Letter dated 09-20-79 from A.W. McCANLESS, IRS Dallas District Director to Mrs. IRENE HANSON.

HANSON'S letter and the complaints she and [redacted] filed, allege in part, that they were harassed and intimidated by three IRS Revenue Officers. The Revenue Officers are reported to be: DON WILLIAMS, JACKIE DAVIS and LARRY RUSHIN.

In her letter, HANSON, a representative of the AD HOC Committee to investigate the Federal Grand Jury, referred to a response she received from A.W. McCANLESS, IRS Dallas District Director, regarding a complaint she made against WILLIAMS and DAVIS. She stated that McCANLESS ignored her complaint and she requested an official investigation by the Regional Commissioner.

NOTE : The complainant's IRENE HANSON and [redacted] were not interviewed by Inspectors because of proposed criminal action by the Criminal Investigation Division against [redacted] and [redacted]

Copies of the above mentioned items 1 through 4 are attached as exhibits.

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

Inspection Report Sheet
Internal Revenue Service
Form 2028-M (5-70)

Inspection Report Sheet

On November 1, 1979, GEORGE HIGHTOWER, Group Supervisor, Internal Revenue Service, Collection Division, Dallas District, was interviewed by the reporting Inspector in the presence of Inspector JAMES LACY regarding the complaint of IRENE HANSON. HIGHTOWER stated substantially as follows:

> He is the supervisor of JACQUELINE DAVIS, LARRY JOE RUSHIN and DONALD WILLIAMS. He was not in the Mesquite IRS Office on August 13, 1979, and has no firsthand knowledge of the meeting between the employees involved.
>
> He is aware of the complainant's involvement with the the local tax protest movement. [redacted] is a known associate of [redacted] a tax protestor who is now serving a sentence in Federal prison as a result of a tax related conviction in Federal court.
>
> Any preidentified tax dodgers are assigned to Grade 12 Revenue Officers. It is normal IRS policy to prohibit anyone from representing a taxpayer unless they are a CPA, Attorney, or Enrolled Agent. The complainant did not establish that she was a qualified representative.
>
> He is unware of any mistreatment of taxpayers by any of the employees mentioned by the complainant.

Case Title	Case Number	Type of Investigation
WILLIAMS, DONALD	6-1079-0148	Conduct
Investigation at	**Inspector Making Report**	
Dallas, Texas	FRANK E. KUSS	

Inspection Report Sheet

On November 16, 1979, LARRY JOE RUSHIN, Revenue Officer, Internal Revenue Service, Collection Division, Dallas District, was interviewed by the reporting Inspector in the presence of Inspector JAMES LACY regarding the complaint of IRENE HANSON. RUSHIN stated substantially as follows:

> He was a witness to a summons which was served by Revenue Officer JACKIE DAVIS against taxpayer [redacted] DAVIS had been assigned a TDI on [redacted] and he [redacted] was given the summons when he appeared in the IRS Office with another man. DAVIS treated [redacted] the same as she would any other taxpayer.
>
> When [redacted] came in the second time, DAVIS asked him (RUSHIN) to be a witness. A woman who accompanied [redacted] handed him (RUSHIN) a plastic coated identification card. After he read it, he realized he many be dealing with a tax protest situation. He took the card back to DON WILLIAMS who was Acting Group Manager that day. WILLIAMS asked him to make a photocopy of the ID card. WILLIAMS then took over the case and he (RUSHIN) went back to his desk.
>
> Later, he saw WILLIAMS and [redacted] go into the Group Manager's office. He also saw the woman wander into the back area of the office. Another IRS employee asked her to go back to the visitor's waiting area and she complied.
>
> He personally did not make any threats against the taxpayer or the woman he brought with him.

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

Inspection Report Sheet

On November 16, 1979, JOHN BIRD, Revenue Officer, Internal Revenue Service, Dallas District, was interviewed by the reporting Inspector in the presence of Inspector JAMES LACY regarding the complaint of IRENE HANSON. BIRD stated substantially as follows:

> He recalled the day the complainant was in the office last summer. His desk was about twenty-five feet away from where the meeting with the taxpayer took place. There was not much commotion, and DON WILLIAMS appeared to control the situation. He is not aware of any threats made by any IRS personnel or taxpayers.

Case Title	Case Number	Type of Investigation
WILLIAMS, DONALD	6-1079-0148	Conduct
Investigation at	**Inspector Making Report**	
Dallas, Texas	FRANK E. KUSS	

Inspection Report Sheet

On November 16, 1979, DONALD R. WILLIAMS, Revenue Officer, Internal Revenue Service, Collection Division, Dallas District, was interviewed by the reporting Inspector in the presence of Inspector JAMES LACY regarding the complaint of IRENE HANSON. WILLIAMS stated substantially as follows:

> He was acting Group Manager on the day IRENE HANSON came to the office with taxpayer [redacted]
>
> Revenue Officer JACKIE DAVIS was attempting to confer with the taxpayer, but HANSON kept interrupting. When asked if she was an authorized enrolled agent to represent taxpayers before the IRS, HANSON produced a plastic ID card from the AD HOC Committee to Investigate the Federal Grand Jury.
>
> Revenue Officer LARRY RUSHIN, a witness to the interview, was given HANSON'S ID card and he took the card to show him. A photocopy of the card was made for the file. He came forward to advise HANSON that she was not able to participate in the conference with [redacted] and she would have to leave. He then asked a Taxpayer Service Representative to advise HANSON the requirements for becoming an enrolled agent to represent taxpayers before the IRS.
>
> He is unaware of any actions on his part or those of any other IRS employee, which may be considered a threat against HANSON or [redacted] None of the Revenue Officers had jackets or coats on. There were no weapons in the possession of any of the IRS employees, including himself.
>
> He spoke to HANSON and [redacted] in a low, controlled tone of voice.
>
> HANSON appeared to be very upset during her entire stay at the IRS Office.
>
> [redacted] agreed to confer with WILLIAMS in the Group Manager's office without the presence of HANSON. The discussion involved the filing of [redacted] tax returns.
>
> When the meeting was concluded, [redacted] and HANSON left the office.

(continued)

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

[redacted] case was reassigned to him since he normally handles taxpayer s who are identified as tax protestors.

His review of the [redacted] case history sheet showed that [redacted] came to the Mesquite IRS Office in July with [redacted] a known tax protestor.

He decided not to enforce the summons issued by Revenue Officer DAVIS, since he determined the case should be referred to the Criminal Investigation Division; a referral was made on 10-25-79.

WILLIAMS, DONALD
6-1079-0148

Inspection Report Sheet

On November 19, 1979, the reporting Inspector reviewed the official IRS case file maintained by Revenue Officer DONALD WILLIAMS regarding taxpayer [redacted] The file review disclosed no apparent violation of IRS procedures by any IRS employees who were involved with the case.

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

8

Inspection Report Sheet
Internal Revenue Service

Form 2020-M (5-70)

Inspection Report Sheet

On November 19, 1979, JACQUELINE R. DAVIS, Revenue Officer, Internal Revenue Service, Collection Division, Dallas District, was interviewed by the reporting Inspector regarding the complaint of IRENE HANSON. DAVIS stated substantially as follows:

> She was in the office on the day that taxpayer [redacted] appeared with IRENE HANSON. HANSON kept disrupting the interview she attempted to conduct with [redacted]
>
> Revenue Officer LARRY RUSHIN witnessed the interview. He left to get DON WILLIAMS, the Acting Group Manager, when HANSON continued to interfere with the interview of [redacted]
>
> WILLIAMS took over the case and she had no further contact with [redacted] or HANSON.
>
> WILLIAMS did not threaten [redacted] or HANSON, however, HANSON appeared to be very upset when she was advised that she could not represent [redacted]

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

Inspection Report Sheet
Internal Revenue Service

Form 2028-M (5-70)

Inspection Report Sheet

On November 19, 1979, THOMAS HENRY, Group Manager, Internal Revenue Serivce, Criminal Investigation Division, Dallas District, was interviewed by the reporting Inspector. HENRY stated substantially as follows:

> A Special Agent in his group, CRAIG TUCKER, has been assigned the fraud referral prepared by DON WILLIAMS regarding [redacted] The case has good criminal potential. An interview of [redacted] by Inspection at this time could hamper prosecution efforts since [redacted] has apparently associated himself with known tax protestors.

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

Inspection Report Sheet

On November 19, 1979, GEORGE SANTOWSKI, Group Manager, Internal Revenue Service, Criminal Investigation Division, Dallas District was interviewed by the reporting Inspector. SANTOWSKI stated substantially as follows:

> Special Agent ROBERT D. MANES is currently working a criminal case against [redacted] The case is expected to go to trial shortly. An interview of IRENE HANSON by Inspection, could add "fuel to the fire", since the trials of tax protestors such as [redacted] usually involve frivolous complaints against IRS personnel, such as violation of rights by IRS Agents.

Case Title	Case Number	Type of Investigation
WILLIAMS, DONALD	6-1079-0148	Conduct

Investigation at	Inspector Making Report
Dallas, Texas	FRANK E. KUSS

Inspection Report Sheet
Internal Revenue Service

Inspection Report Sheet

On November 19, 1979, ROBERT D. MANES, Special Agent, Internal Revenue Service, Dallas District, was interviewed by the reporting Inspector regarding his case against [redacted] MANES stated substantially as follows:

> He is presently assigned a Criminal Investigation Case on [redacted] The case is expected to result in the criminal prosecution of [redacted] Since a trial date could be scheduled in the near future, an interview of IRENE HANSON could interfere with the prosecution of [redacted] since the defense would attempt to cloud the issues, as during previous tax protestor trials.
>
> IRENE HANSON has been attending the tax trial of [redacted] a tax protestor. Her husband, BRUCE, has filed several civil suits against IRS Officers, including himself. The suits are on file in the District Court Clerks Office, Dallas, Texas.

Case Title	Case Number	Type of Investigation
WILLIAMS, DONALD	6-1079-0148	Conduct
Investigation at	**Inspector Making Report**	
Dallas, Texas	FRANK E. KUSS	

Inspection Report Sheet

On November 19, 1979, a review of records at the office of the U.S. District Clerk of Courts, Northern Judicial District of Texas, Dallas, Texas, disclosed that BRUCE HANSON, husband of IRENE HANSON, has filed several civil suits against officials of the Internal Revenue Service. A suit against two Special Agents of the IRS Criminal Investigation division was dismissed. Two remaining suits have not been resolved. None of the suits involve Revenue Officer s DON WILLIAMS, JACKIE DAVIS or LARRY RUSHIN.

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

Inspection Report Sheet
Internal Revenue Service

Form 2028-M (5-70)

Inspection Report Sheet

The December 7, 1979 edition of the Dallas Times Herald contained a news article entitled "Fraternization with Juror Claimed in Tax Trial." The news article, attached as an exhibit, reported, in part, as follows:

> IRENE HANSON, a spectator in the month long tax protest trial of [redacted] was arrested by Federal Marshals, and was held for several hours, after she refused to attend a court hearing.
>
> The hearing was held by U.S. District Court Judge SARAH HUGHES after prosecution introduced testimony during [redacted] trial that IRENE HANSON had been fraternizing with a trial juror.

Case Title WILLIAMS, DONALD	Case Number 6-1079-0148	Type of Investigation Conduct
Investigation at Dallas, Texas	Inspector Making Report FRANK E. KUSS	

ATTACHMENT #4

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL

IN REPLY
REFER TO:

APR 22 1982

MEMORANDUM TO: Robert L. Rebein
Assistant Commissioner (Inspection)
Internal Revenue Service

FROM: Inspector General

SUBJECT: Irene C. Hanson
Lewisville, Texas

Attached for your information and appropriate action is a copy of a letter from Irene C. Hanson which sets forth complaints concerning the Internal Revenue Service. In the attached letter, Ms. Hanson refers to a letter to this office dated March 22, 1982. In that letter, Ms. Hanson simply requested information on the procedures for submitting a complaint to this office. It contains no information relevant to this matter and, therefore, is not attached.

Upon completion of your review of this matter, please advise this office of your findings and of any action taken.

Your continued cooperation in providing such information to this office is greatly appreciated.

Paul Trause
Paul K. Trause

Attachment

April 10, 1982

Office of Inspector General
Room 2412
15th and Pennsylvania NW.
Washington, D. C. 20220

Gentlemen:

As I said in my letter to you of March 22, 1982, I have a matter I wish you to investigate. Also I would like your assistance in obtaining redress in this same matter which I will briefly outline for you.

I was falsely arrested by U. S. marshals on December 6, 1979, at the behest of the IRS, while I was observing the court of Sarah T. Hughes and gathering information to be used for a subsequent demand for her impeachment. Judge Hughes was well known for her abuse of power in cases involving the IRS. At this point a chain of events began, each event having in common further abuses by the IRS: On December 9, 1979, I demanded the names of all deputy U. S. marshals that were involved with my false arrest and incarceration. On or about January 11, 1980, my husband, Bruce Hanson, was notified by letter that he was being referred to the Justice Department for prosecution. No determination by the tax court was ever made as to any liability on his part, yet he was prosecuted, and without counsel. When he was sentenced November 5, 1981, the judge granted his request to appeal in forma pauperis, but it was later revoked without the IRS through the Justice Department ever contravening my husband's affidavit of indigency.

The IRS has reduced us to indigents; since the IRS moved to prosecute, my husband has been blackballed from work as a stress analyst in the aerospace industry. We are unable to afford the costs of the appeal, a right even an indigent has; without the appeal he will be imprisoned.

In Faith and Hope,

Irene C. Hanson
Route 2, 33 Wildwood
Lewisville, Texas 75067
214 436-6471

ATTACHMENT #6

MAY 3 1982

Inspector General SG

(Signed) R. L. Rebein

Assistant Commissioner (Inspection) I

IRENE C. HANSEN

The letter, dated April 10, 1982 from Mrs. Hansen has been reviewed and found to contain no information of interest to Inspection. We have forwarded the letter to the Office of Associate Commissioner (Operations) for inclusion in their files. On April 26, 1982, Mrs. Hansen testified before the Hearing on Taxpayer Safeguards which was held by the Subcommittee on Oversight, House Committee on Ways and Means. Included in her testimony were the issues discussed in her letter. The Service is currently in the process of preparing a response to her allegations to the Subcommittee.

If you have any questions or wish to discuss this further, please contact me or Steve Marica at 566-4717.

cc: Mr. Rebein ✓
Mr. Mulroy
IB Files
IB Reading File
SMM's Group & Case Files

I:IS:I/SMMarica:mc/566-4717/4-29-82

6. Further, provide background on the case of Mrs. Hanson's husband, the current status of his case, other investigations relating to Mr. or Mrs. Hanson and, a response to Mrs. Hanson's statement.

Irene Hanson is the wife of Bruce Hanson. Bruce Hanson was convicted of and sentenced for failure to file income tax returns and filing a false Form W-4. Hanson filed a 1976 income tax return in May 1977 and wrote "unconstitutional" all over the return.

Mr. Hanson was indicted on April 29, 1981, on two counts of failure to file his 1977 and 1978 returns and one count of filing a fraudulent Form W-4 in 1978. He was found guilty by a jury on August 10, 1981, of all three counts. He was sentenced in November 1981 as follows:

Count I - One year to serve, $1,000 fine
Count II - 179 days to serve, $1,000 fine
Count III - One year probation

Mrs. Hanson stated in her testimony on April 26, 1982 before the Subcommittee that her husband received the maximum three year sentence. As indicated above, he received the maximum only on one count. Mrs. Hanson was accurate in her statement that the sentence was consecutive; he is to serve one year and 179 days. Mr. Hanson is presently appealing his conviction as well as a decision by the Judge that he was not a pauper.

Mrs. Hanson also stated in her testimony that her husband was arraigned without benefit of counsel. Mr. Hanson elected to represent himself at the arraignment and also represented himself during his trial.

An article concerning Mr. Hanson's conviction which appeared in the Lewisville Leader on August 11, 1981 is attached.

Lewisville Leader
Lewisville, TX
8/11/81

Pg. 1 of 1

FM tax protester convicted on 3 charges

By Anna Hosemann-Butler

SHERMAN — Flower Mound tax protester Bruce Hanson was convicted in federal court Monday of three misdemeanor tax charges. Hanson was found guilty of two counts of violating the Internal Revenue Code Section 7203 for willful failure to file income tax returns for tax years 1977 and 1978, and one count of violating the IRC section 7205, filing a fradulent W-4 withholding certificate in 1978.

Hanson faces maximum penalties of one year in jail for each count plus fines of up to $10,000 for each failure to file conviction and a fine of $500 for the fraudulent withholding conviction. Hanson could also be made to bear the costs of prosecution for the first two charges.

The jury was out less than 40 minutes to deliberate Hanson's fate Monday morning. After hearing final arguments, Judge William Wayne Justice gave instructions to the jury and then ordered them to retire to the jury room at 10:50 a.m. The jury was back in the courtroom by 11:30 a.m. and the unanimous guilty verdicts on all three counts were read shortly thereafter.

HANSON WAS RELEASED to his own recognizance on $1,000 bond pending sentencing. Justice will decide the sentence sometime within the next few weeks. Justice turned Hanson over to probation authorities to answer questions which will determine the sentence. Hanson told the judge he would probably invoke his Fifth Amendment rights when talking to the probation officer.

Hanson, who defended himself in the proceedings, would not comment on the verdict. Observers speculate he will probably appeal the case, however. Prosecutor Rosemary Paguni, an attorney for the U.S. Department of Justice in Washington, D.C. said she could not comment on the case.

Paguni was successful in convincing the 12-member jury that Hanson had willfully committed the crimes. She introduced testimony and evidence throughout the hearings last week which showed Hanson's past financial dealings and his past dealings with the IRS.

Hanson filed no tax return at all for 1978 and filed a return for the tax year 1977 in 1980, after he had been informed of the IRS investigation against him was concluded.

HANSON USED A number of arguments during the course of the trial to justify his non-payment of taxes. He invoked the Fifth Amendment.

At one point, evidence showed Hanson had told the IRS he was not responsible for paying taxes because he had not been paid in legal, gold or silver backed dollars but federal reserve notes.

Hanson cliamed in his final argument to the jury, that he had repeatedly asked the IRS for aid in filing a proper 1040 return without violating his constitutional rights. Hanson argued that he had not fradulently filed the false W-4 but did so because he classified himself as an independent contractor and was thus not required to have taxes withheld.

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Request #7

7. Provide the subcommittee with a detailed explanation of the IRS policy and procedures regarding individuals attending audit examinations or any other meetings between a taxpayer and the Service.

In order to provide required confidentiality in tax matters, the Internal Revenue Service attempts to limit individuals who attend audit examinations to those who are duly authorized to represent the taxpayer or those who have knowledge of the facts or who can give information which will assist in establishing the facts in a particular case.

Circular 230 provides rules governing the practice of attorneys, certified public accountants, enrolled agents, and other persons representing clients before the Service. Revenue Procedure 68-20 (Attachment 1) provides guidelines for limited practice without enrollment for preparers of tax returns and Revenue Procedure 68-29 (Attachment 2) concerns the recognition of witnesses in an examination. IRM 4050 (Attachment 3) contains instructions to Examination employees regarding enrollment and practice of taxpayer representatives. IRM 403(19) (Attachment 4) contains instructions regarding recognition of witnesses during the examination process. IRM 5155 (Attachment 5) contains instructions to Collection employees concerning taxpayer representatives.

During the examination, a taxpayer has the right to use the services of any person he may elect to explain his books, records, or returns to the examining agent; and the examining agent has not only the right, but also the duty to receive information from anyone who has knowledge of the facts. Of course, if the taxpayer is not present or has not executed a Tax Information Authorization in favor of the witness, the examining officer must not disclose any confidential tax information.

Those persons not properly authorized to practice before the Internal Revenue Service who have knowledge of the facts in a case can present this information in the capacity of witnesses. However, they cannot advocate the taxpayer's position.

Further, recent changes to the Internal Revenue Manual have specified that tape, stenographic or other verbatim recordings of examination proceedings will ordinarily be allowed, except where the taxpayer's or representative's behavior is clearly disruptive of the normal examination process or investigative proceeding and the Service can make its own recording.

Attachment 1

26 CFR 601.502: Requirements for conference—recognition to practice and, in certain cases, power of warranty or tax information authorization. **Rev. Proc. 68-20**

(Also 31 CFR Part 10, Section 10.7: Limited Practice Without Enrollment.)

Standards of conduct, extent of authority, and circumstances and conditions under which an individual preparer of tax returns may exercise the privilege of limited practice without enrollment before the Internal Revenue Service.

Revenue Procedure 64–47, C.B. 1964–2, 988, superseded.

SECTION 1. PURPOSE.

The purpose of this Revenue Procedure is to prescribe, pursuant to Section 10.7(a)(7) of Treasury Department Circular No. 230 revised effective after September 12, 1966, and with amendments dated September 27, 1966, C.B. 1966–2, 1171, and October 28, 1966 (31 CFR Part 10) C.B. 1967–1, 433, the standards of conduct, the extent of authority, and the circumstances and conditions under which an individual preparer of tax returns may exercise, without enrollment, the privilege of limited practice as a taxpayer's representative before the Internal Revenue Service.

SEC. 2. APPLICABILITY.

.01 This Revenue Procedure, issued pursuant to section 10.7(a)(7) of Circular 230, applies to all unenrolled individual preparers of returns who seek to represent taxpayers, within the United States, before revenue agents or examining officers in the Audit Division of an Office of a District Director of Internal Revenue or in the Office of International Operations. Any reference herein to the District Director will be construed, where appropriate, to include the Office of International Operations or the Director of International Operations.

.02 This Revenue Procedure does not apply to attorneys, certified public accountants, or agents who are enrolled to practice before the Internal Revenue Service. The rules governing the practice of such persons before the Service are contained in the provisions of Circular 230.

SEC. 3. SCOPE OF AUTHORITY.

.01 An unenrolled individual who signs a return as its preparer may act as the taxpayer's representative if accompanied by the taxpayer, or by filing a written authorization from the taxpayer as provided herein in section 5. Such representation is limited to practice before a revenue agent or an examining officer in the Field Audit or Office Audit Branch in the Audit Division of an Office of the District Director of Internal Revenue, and may only encompass matters concerning the tax liability of the taxpayer for the taxable year covered by that return, subject to the limitations herein prescribed.

.02 Privilege of limited practice before the Internal Revenue Service is limited to any person who is not under disbarment or suspension from practice before the Internal Revenue Service or from practice of his profession by any other authority (in the case of attorneys, certified public accountants, and public accountants).

.03 An unenrolled individual who prepared a return which provides no space on the prescribed form for signature of the preparer, or who prepared a return with respect to which the instructions or regulations do not require that it be signed by the preparer, may appear as the taxpayer's representative, if properly authorized, as set forth in 3.01.

.04 If the unenrolled preparer appears before the revenue agent or examining officer without the taxpayer, written authorization from the taxpayer for such representation must be filed with the revenue agent or examining officer. The unenrolled preparer may also be required to furnish satisfactory identification.

.05 The unenrolled preparer will be expected to remain alert to questions, issues and factual situations of such difficulty as to require the assistance of an attorney, a certified public accountant, or an enrolled agent and, when such assistance is required, to suggest to the taxpayer that he seek the advice or services of an attorney, certified public accountant, or an enrolled agent.

.06 Where a carryback or carryforward, or both, are involved in a tax return, the unenrolled preparer will not be recognized as the taxpayer's representative with respect to the taxable year in which the carryback or carryforward arose unless he prepared and signed a return for such year or years.

.07 The privilege to practice as a taxpayer's representative in accordance with this Revenue Procedure shall not constitute enrollment nor a finding of eligibility for enrollment.

Sec. 4. Limitations of the Privilege of Limited Practice.

.01 Privilege of limited practice without enrollment afforded an individual preparer of returns is restricted to representation before the examining officer stated in section 3. No unenrolled preparer shall represent or correspond as the taxpayer's representative at a district conference in the Audit Division, District Director's Office; nor as a taxpayer's representative before the Appellate Division, nor before officials in the National Office.

.02 In addition, the following acts on behalf of the taxpayer are beyond the scope of authority permitted an unenrolled preparer:

(a) Executing claims for refund.

(b) Receiving checks in payment of any refund of Internal Revenue taxes, penalties, or interest.

(c) Executing consents to extend the statutory period for assessment or collection of a tax.

(d) Executing closing agreements with respect to a tax liability or specific matter.

(e) Executing waivers of restriction on assessment or collection of a deficiency in tax.

Sec. 5. Form of Authorization From the Taxpayer.

.01 Internal Revenue Service Form 2848–D, Tax Information Authorization (or any other properly executed written authorization), will be accepted as the unenrolled preparer's authorization to appear without the taxpayer under this Revenue Procedure.

.02 Tax Information Authorization forms may be obtained from local Internal Revenue Service offices.

.03 The authorization must be signed by the taxpayer. It may be revoked by the taxpayer at anytime, but such revocation shall not be effective so far as the Service is concerned prior to the receipt of written notification.

SEC. 6. ETHICS AND CONDUCT.

.01 An unenrolled preparer shall conduct himself in such manner as not to commit any act of disreputable conduct. Disreputable conduct includes, but is not limited to, the items contained in section 10.51 of Circular 230.

.02 An unenrolled preparer shall not charge an unconscionable fee for representation of a client in any matter before the Internal Revenue Service.

.03 An unenrolled preparer shall not neglect or refuse to submit records or information in any matter before the Internal Revenue Service upon proper and lawful request by a duly authorized officer or employee of the Service; and the unenrolled preparer shall not interfere, or attempt to interfere, with any proper and lawful efforts by the officers or employees of the Service to obtain information, unless he believes in good faith and on reasonable grounds that the request for, or effort to obtain, such record or information is of doubtful legality.

.04 Any unenrolled preparer who knows that the client has not complied with the law, or that he has made an error in or omission from any return, document, affidavit, or other paper which the client is required by law to execute in connection with any matter administered by the Service, shall advise the client promptly of the fact of such noncompliance, error, or omission.

.05 An unenrolled preparer shall exercise due diligence in preparing or assisting in the preparation, approving, and filing of returns, documents, affidavits, or other papers relating to Internal Revenue Service matters. He shall also exercise due diligence in determining: (1) The correctness of representation made by him to the Service, and (2) the correctness of representation made by him to his client with reference to any matter administered by the Service.

.06 An unenrolled preparer shall not unreasonably delay the prompt disposition of any matter before the Internal Revenue Service.

.07 An unenrolled preparer, as a Notary Public, shall not take acknowledgements, administer oaths, certify papers, or perform any official act in connection with matters relating to his client's tax liabilities, or in connection with any other matter in which he may in any way have given assistance or been employed. In addition, he may not take any acknowledgements, oaths, or certification as a Notary Public relating to any tax return, protest, or other document which he has prepared or which he has assisted in preparing. (26 OP. Atty. Gen. 236.)

.08 An unenrolled preparer shall not procure, or attempt to procure, directly or indirectly, from Government records or Government sources, information of any kind which is not made available by proper authority.

.09 An unenrolled preparer shall not represent conflicting interests in his limited practice before the Service, except by express consent of all directly interested parties after full disclosure has been made.

SEC. 7. SOLICITATION AND ADVERTISING.

.01 An unenrolled preparer shall not, in any manner whatsoever that is not warranted by personal relations, directly or indirectly, solicit employment in matters relating to the Internal Revenue Service: nor shall he advertise that he is authorized to represent taxpayers before the Service.

.02 An unenrolled preparer shall not use false or misleading representations with intent to deceive a client or prospective client in order to procure employment, or use signs, printing, or other written matter indicating some past or present connection with, or relationship to the Internal Revenue Service or otherwise intimating that the unenrolled preparer is able improperly to obtain special consideration or action from the Service or officer or employee thereof.

SEC. 8. PERSONS INELIGIBLE TO PRACTICE UNDER THIS REVENUE PROCEDURE

.01 The following persons shall be ineligible to exercise the privilege of limited practice before the Internal Revenue Service:

(a) Any individual who has been convicted of any criminal offense under the Revenue Laws of the United States or of any offense involving dishonesty or breach of trust;

(b) Any individual who is under disbarment or suspension from the practice of his profession as an attorney, certified public accountant, or public accountant by a state authority or the District of Columbia;

(c) Any individual who has been disbarred or suspended from practice before the Internal Revenue Service;

(d) Any individual whose application for enrollment to practice before the Internal Revenue Service has been denied;

(e) Any individual who refuses to comply with this Revenue Procedure;

(f) Any individual whose conduct or practices have been or are such as to constitute a violation of Sec. 6 or 7 of this Revenue Procedure;

(g) Any individual who is an officer or employee of the United States or of the District of Columbia; and

(h) Any individual who is an officer or employee of any state or any subdivision thereof, whose duties authorize him to investigate, pass upon, or act with respect to tax matters of such state or subdivision, if such employment may make available to him facts or information applicable to Federal tax matters.

.02 In addition corporations, associations, partnerships, or other business entities are ineligible to practice before the Internal Revenue Service.

SEC. 9. RULES GOVERNING RECOGNITION OF UNENROLLED PREPARERS.

.01 Any revenue agent, examining officer, or other Service officer or employee who has reason to believe that an unenrolled preparer's conduct has been or is such as would render him ineligible to appear as the taxpayer's representative before the Internal Revenue Service, shall communicate such information to the District Director. Pending instructions, such Service employees may continue to recognize, or in the exercise of sound administrative discretion, may decline to recognize the unenrolled preparer as a taxpayer's representative.

.02 In administering this Revenue Procedure, each District Director exercises original jurisdiction in determining whether an unenrolled preparer is eligible to appear as a taxpayer's representative. When the District Director receives information, either before or after an unenrolled preparer has been recognized, indicating that the preparer's conduct, practice, or employment has been or may be such as to render him ineligible to represent taxpayers, the District Director will issue a written notice to the unenrolled preparer of proposed determination of ineligibility. This notice will contain information sufficient to apprise the unenrolled preparer of the basis for the proposed determination of ineligibility and will contain a request for a written reply within 30 days, and advice as to whether a conference is desired with the District Director or his delegate. If the unenrolled preparer fails to reply, or upon review if a reply is filed, or after a conference if one is held, the District Director will notify the unenrolled preparer in writing of his final determination. Where warranted, the determination will state that the unenrolled preparer is ineligible to exercise the privilege of limited practice before the Service and his determination may be appealed to the Director, Audit Division. A copy of each final determination of ineligibility issued by the District Director will be forwarded to the Director, Audit Division, National Office, Internal Revenue Service, together with copies of the notice of proposed determination of ineligibility, the unenrolled preparer's reply, if one is filed, and any other related papers or documents.

.03 An unenrolled preparer who wishes to appeal a District Director's final determination of ineligibility may, within 30 days of receipt of such final determination, submit a signed, written appeal together with his reasons in support thereof, to the Director, Audit Division (CP:A:PO-E), Internal Revenue Service, Washington, D.C. 20224. Upon filing of the written appeal, and the reasons in support thereof, the unenrolled preparer, upon request, will be afforded the opportunity of a conference with the Director, Audit Division or his designee. A decision will then be rendered by the Director, Audit Division or his designee affirming, reversing, or modifying the decision of the District Director upon such terms and conditions as seem warranted under the facts and circumstances of the particular appeal. The decision of the Director, Audit Division or his designee on such appeal will be final.

SEC. 10. SPECIAL ORDERS.

.01 The Director, Audit Division may issue such special orders as he may deem proper in any matter within the purview of this Revenue Procedure.

.02 The unenrolled preparer who has been determined ineligible for limited practice before the Internal Revenue Service may request, after one year following the notice of final determination of ineligibility or decision on appeal thereto, that his eligibility for limited practice be reinstated. The request for reinstatement will be made to the District Director who may modify or revoke the previous determination. The District Director will consider the nature of the violation that resulted in ineligibility, the period of ineligibility, and the preparer's current adherence to the standards of ethics and conduct established by this Revenue Procedure in evaluating the request for reinstatement to limited practice. The consideration of such request for reinstatement will not be a re-evaluation of the original determination of ineligibility.

SEC. 11. INQUIRIES.

Inquiries from unenrolled preparers and Service personnel regarding this Revenue Procedure should be addressed to the Director, Audit Division (CP:A:PO-E) Internal Revenue Service, Washington, D.C. 20224.

SEC. 12. EFFECT ON OTHER DOCUMENTS.

Revenue Procedure 64-47, CB 1964-2, 988 is hereby superseded.

SEC. 13. EFFECTIVE DATE.

This Revenue Procedure shall be effective April 29, 1968.

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26 CFR 601.602: Forms and instructions. Rev. Proc. 68-21
(Also Part I, Section 6011: 31.6011(a)-3.)

The Internal Revenue Service will interpose no objection if vacation allowances under a labor agreement, administered by a vacation trust fund under the conditions stated, are reported by the fund on Form 940, Employer's Annual Federal Unemployment Tax Return.

SECTION 1. PURPOSE.

The purpose of this Revenue Procedure is to announce that the Internal Revenue Service will interpose no objection if a vacation trust fund, distributing vacation allowances to employees under the circumstances stated in Revenue Ruling 57-316, C.B. 1957-2, 626, makes annual returns on Form 940 of the tax applicable to the vacation allowances under the Federal Unemployment Tax Act (chapter 23, subtitle C, of the Internal Revenue Code of 1954).

SEC. 2. BACKGROUND.

In Revenue Ruling 57-316 a vacation fund, to be used solely for the purpose of making vacation payments to eligible employees, was established pursuant to a labor agreement entered into by an association of employers and an employees' union. The fund is administered by joint trustees composed of an equal number of representatives of the union and the employers. The employers are required to pay each month to the trustees for the operation of the vacation plan a specified sum per hour for each hour worked by each union member employed by such employers during the previous month. The specified sum is in addition to the hourly wage rates set forth in the labor agreement. The rules adopted by the trustees, governing the eligibility of employees for vacation payments, set forth specific requirements relative to the number of hours worked per year, etc. The plan provides that vacations shall be taken with the mutual consent of the employer and employee. Neither the employers, the employers' association, the employees, nor the employees' union has any right, title or interest in the vacation fund except as the trustees may determine the vacation allowances to be made to the eligible employees. Except in unusual any, of adjustments to tax liability or acceptance of his return without change.

2. An unagreed income, estate or gift tax case is considered closed when the period for filing a petition with the Tax Court of the United States specified in the statutory notice of deficiency issued by the District Director expires and no petition was filed.

3. An unagreed excise or employment tax case is considered closed when the period for filing protest and requesting consideration by the Appellate Division specified in the preliminary letter expires and no protest or request for Appellate consideration is filed.

.02 Examination and Reopening:

Contacts with taxpayers to verify or adjust items disclosed on information returns, including items of income distributable to taxpayers by partnerships, fiduciaries, or small business corporations, and contacts with taxpayers to correct mathematical errors are not examinations or reopenings.

SEC. 4. POLICY.

.01 The Internal Revenue Service will not reopen any case closed after examination by a district office or Office of International Operations to make an adjustment unfavorable to the taxpayer unless:

1. There is evidence of fraud, malfeasance, collusion, concealment or misrepresentation of a material fact; or

2. The prior closing involved a clearly defined substantial error based on an established Service position existing at the time of the previous examination; or

3. Other circumstances exist which indicate failure to reopen would be a serious administrative omission.

.02 All reopenings must be approved by the Assistant Regional Commissioner (Audit), or by the Director of International Operations for cases under his jurisdiction. If an additional inspection of the taxpayer's books of account is necessary, the notice to the taxpayer required by section 7605(b) of the Code must be signed by the Regional Commissioner, or by the Assistant Commissioner (Compliance), in cases under the jurisdiction of the Director of International Operations.

SEC. 5. EFFECT ON OTHER DOCUMENTS.

This Revenue Procedure supersedes Revenue Procedure 64-40, C.B. 1964-2, 971.

The extent to which examining officers and other employees of the Revenue Service may accord recognition to persons acting on behalf of taxpayers is outlined; Revenue Procedure 59-4 superseded.

26 CFR 601.501: Scope of conference and practice requirements; definitions.

Rev. Proc. 68-29

SECTION 1. PURPOSE.

To outline the extent to which examining officers and other employees of the Internal Revenue Service may accord recognition to persons employed by taxpayers in connection with Federal tax matters, and to set forth guiding principles to assist in determining the extent of discussion of matters with such persons.

SEC. 2. IN GENERAL.

.01 Generally, any individual who has knowledge of the facts, or who can give information which will assist in establishing the facts, is a proper source of information in determining the tax liability and can be heard in the capacity of a "witness" whether he is acting at the request of the taxpayer or claims the taxpayer as his client. For example, a broker who represented the taxpayer in a sale of real estate may be a proper person to furnish the facts with respect to that particular transaction. Similarly, an accountant who has kept or audited the taxpayer's books and records or prepared his tax returns may be a proper person to supply information and assist in the factual development of the case. Likewise, an actuary, who prepared a proposed pension plan or computed the contribution to be made under an approved plan may be a proper person to furnish information and assist in the development of the facts. However, unless properly authorized to represent the taxpayer and qualified to practice before the Internal Revenue Service an individual may not be heard as the taxpayer's representative in advocating a particular position on issues or controversies arising during a tax examination.

The difference may be summarized by distinguishing activities in the capacity of witness—or one who assists in the factual development of a case—and activities in the capacity of advocate—or one who acts in behalf of the taxpayer in urging particular determinations with respect to issues or controversies. During the examination a taxpayer has the right to use the services of any person he may elect to explain his books, records, or returns to the examining agent; and the examining agent has not only the right but also the duty to receive information from anyone who has knowledge of the facts. Of course, if the taxpayer is not present or has not executed a Tax Information Authorization in favor of the witness, the examining officer must not disclose any confidential tax information to him.

.02 The foregoing pertains primarily to the furnishing of information during the factual development of a case. However, the taxpayer also has the right in cases involving issues or controversies to have any person who has knowledge of pertinent facts accompany him or his duly authorized representative to conferences (including the district conference in the Audit Division of an office of District Director). Such appearances are permitted only when the taxpayer or his duly authorized representative is present, and then only in the capacity of a witness.

.03 This Revenue Procedure is not an authorization to "practice" before the Internal Revenue Service by persons other than those described in section 10.3 of Department Circular No. 230, as revised C.B. 1966–2, 1171.

.04 The foregoing statements should assist in the exercise of sound administrative discretion in determining matters that may be discussed without violating the regulations relating to "practice", the Service's rules of conduct, and other instructions for employees of the Internal Revenue Service.

SEC. 3. INQUIRIES.

Inquiries regarding this Revenue Procedure should be addressed to the Director, Audit Division (CP : A : PO-E), Internal Revenue Service, Washington, D.C. 20224.

SEC. 4. EFFECT ON DOCUMENTS.

Revenue Procedure 59-4, C.B. 1959-1, 810, is hereby superseded.

SEC. 5. EFFECTIVE DATE.

This Revenue Procedure shall be effective August 12, 1968.

District Audit Division conference procedures have been revised; Revenue Procedure 67-27 superseded.

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

Rev. Proc. 68-30

SECTION 1. PURPOSE.

This Revenue Procedure restates district Audit Division conference procedures as announced in Revenue Procedure 67-27, C.B. 1967-1, 630, and provides revised district Audit Division conference procedures in unagreed office audit cases.

SEC. 2. SCOPE.

The revised district Audit Division conference procedures apply to unagreed field audit and office audit cases involving income, estate, gift, excise (other than excise taxes on alcohol, tobacco, narcotics, and firearms), or employment taxes.

SEC. 3. PROCEDURES IN UNAGREED FIELD AUDIT CASES.

.01 If, at the conclusion of an examination, the taxpayer does not agree with the adjustments proposed by the examining officer, the examining officer will prepare a complete examination report fully explaining all proposed adjustments.

.02 Before the examination report or any district Audit Division conference invitation is sent to the taxpayer, the case files will be subjected to a thorough technical and procedural review.

.03 Following the review of the case files, the taxpayer will receive a copy of the examination report under cover of a transmittal letter (commonly referred to as a "30-day letter"). This letter provides him with a detailed explanation of the available appeal procedures and requests him to inform the district, ordinarily within 30 days, of his choice of action.

.04 If the total amount of proposed additional tax, proposed overassessment, or claimed refund does not exceed $2,500 for any year, the taxpayer will be granted a district Audit Division conference on request, but will not be required to file a protest. Nevertheless, if he so desires, he may submit a written statement outlining the facts, law, or arguments on which he relies.

.05 If the amount of proposed additional tax, proposed overassessment, or claimed refund exceeds $2,500 for any year, the taxpayer, on request, will be granted a district Audit Division conference, provided

4040 *(6-8-76)*
Classification, Examination, and Review—Service Employees' Returns

4041 *(6-8-76)*
Classification of Employee Returns

The tax returns of all Service employees, regardless of grades or positions, will undergo the same initial computer screening process and classification procedures that are applicable to all individual income tax returns. See policy statement P-4-9.

4042 *(4-2-79)*
Examination, Survey, and Review—Employee Returns

(1) Employee returns selected for examination may be surveyed only after assignment. When an examiner believes that an examination of an employee's return would result in no material change in tax liability, he/she may apply survey after assignment procedures. In such cases, the examiner will prepare a report on Form 1900 (Income Tax Survey After Assignment), stating reasons for such action. If the examiner's group manager concurs, he/she will approve the case and forward it to the Chief, Examination Division, or District Director in streamline districts, for the latter's consideration and final approval on Form 1900.

(2) The general rules relating to examinations, proposed changes, appeal rights, financial statements, etc., will apply to service officials and employees to the same extent that they apply to all other individual taxpayers.

(3) Examination reports covering examinations of employee returns will be assigned for review in the same manner as other reports. No special review, or assignment to a special reviewer, solely because an employee examination is involved, is permitted.

(4) If the return of an employee indicates that he/she and his/her spouse filed separately, the return of the spouse will be associated with the employee's return for concurrent examination and disposition under the related returns procedures set forth in IRM 4224.

(5) When facts are disclosed upon examination which indicate that an official or employee is, or has been, engaged in any activity in violation of the Rules of Conduct of the Service, a copy of the examination report will be transmitted to the Regional Inspector through the Office of the Regional Commissioner. If the individual concerned is an official or employee of the National Office, or a regional office, the copy of this report will be forwarded to the Assistant Commissioner (Inspection) rather than to the Regional Inspector.

(6) The impartial and independent character of examinations of tax returns of Internal Revenue Service employees and officials must be ensured in accordance with the guidelines in IRM 4036:(3). When attainment of this objective by the assignment of a case to an examiner, or reviewer in the district having jurisdiction is questionable, such as when examinations of supervisors and officials are involved, the Assistant Regional Commissioner (Examination) should be asked to have the case examined, and reviewed by appropriate technical personnel from another district.

4043 *(1-7-80)*
Personnel Request for Tax Examination

(1) When investigation of a Service employee or prospective employee requires a review of the account history and a tax examination, Personnel sends Form 2677 (Request for Account History and Tax Audit) to the district Examination Division (Attention: Returns Program Manager) serving the post-of-duty in which the taxpayer is or will be employed, regardless of where the returns were filed. For prospective employees in streamlined districts and applicable service centers, Forms 2677 will be sent to the Chief, Classification Section of the service center serving the area of the employee's post-of-duty.

(2) Examination will make examinations requested, complete items 9 through 12 on Form 2677, and forward the form and copies of the examination reports pursuant to the instructions on the form.

(3) If Personnel notifies the RPM (Chief, Classification Section) to stop processing the request, the area in which Form 2677 is located will take steps to conclude Examination's action.

4050 *(8-30-77)*
Enrollment and Practice

4051 *(8-6-80)*
Recognition Rules and Regulations

(1) Internal Revenue Service officers and employees will observe applicable rules and regulations in their dealings with persons appearing for others in tax matters. The principal rules and regulations are set forth below.

(a) *TREASURY DEPARTMENT CIRCULAR NO. 230, Rules Governing the Practice of Attorneys and Agents before the Internal Revenue Service, (REVISED), 31 CFR, SUBTITLE A., PART 10*—This Circular contains the rules governing the practice of attorneys, certified public accountants, enrolled agents, and other persons representing clients before the Service. It authorizes the Commissioner to grant or deny enrollment; and provides that the Director of Practice shall act upon appeals from decisions of the Commissioner denying enrollment, and institute disciplinary proceedings relating to attorneys, certified public accountants, and enrolled agents. The decisions of the Director of Practice are subject to review only by the Secretary of the Treasury.

(b) Pub. No. 216, *Conference And Practice Requirements, 26 CFR, Subpart E, Part 601*—These regulations implement the provisions of Circular No. 230 regarding practice requirements and provide the rules for recognition of taxpayer representatives. Such recognition rules cover the presentation of identification and authorization for various classes of representatives acting in various capacities.

(c) REV. PROC. 68–20, 1968–1 C.B. 812, Pub. No. 470, *Limited Practice Without Enrollment*—This revenue procedure implements the provisions of section 10.7(a)(7), Circular No. 230, regarding the circumstances and conditions under which an individual preparer of tax returns may exercise the privilege of limited practice without enrollment.

(d) REV. PROC. 68–29, 1968–2 C.B. 913, *Scope of Requirements*—This revenue procedure concerns recognition accorded unenrolled persons who are not attorneys or certified public accountants and are not within the exceptions provided in section 10.7, Circular No. 230. It also distinguishes between their activities as a witness and as an advocate.

(2) IRM 4055 contains general recognition guidelines for use in applying above rules and regulations.

(3) Section 440 of IRM 6570, Taxpayer Education Handbook—Sets forth procedures for administering the Student Tax Clinics Program. This program allows students in law or graduate accounting schools with qualified clinics to represent taxpayers before the IRS. These clinics must have the approval of both the Treasury Department and the IRS. Students representing taxpayers must have proper identification that they are clinic participants. (See IRM 4055.6:(6) for guidelines in the preparation of Form 2848, Power of Attorney, by clinic participants.)

4052 *(6–8–76)*
Enrollment

4052.1 *(8–30–77)*
Eligibility for Enrollment

(1) Under the provisions of Circular No. 230, the Commissioner may grant enrollment to any applicant who:

(a) is not an attorney or certified public accountant;

(b) has not engaged in any conduct which would justify the suspension or disbarment of any attorney, certified public accountant or enrolled agent;

(c) has demonstrated special competence in tax matters by written examination or by virtue of his/her past service and technical experience as a Service employee.

4052.2 *(6–8–76)*
Scope of Enrollment

(1) Enrolled persons are generally entitled to practice before all levels of the Internal Revenue Service. Government officers and employees, certain State officers and employees, Members of Congress, and Resident Commissioners may be enrolled; however, they are prohibited from practice before the Service except under certain conditions. See section 10.3(e) and (f) of Circular No. 230 for details regarding restrictions.

(2) Under certain circumstances, enrollment granted to a former employee may be restricted to a particular tax area. In such cases the enrollee's card will specify this restriction.

4052.3 *(3–17–81)*
Duration of Enrollment

(1) *Permanent Enrollment Cards*—Enrollment cards issued since September 12, 1966, are permanent cards of unlimited duration. This applies to both new enrollees and enrollees with a terminable card who filed a timely application for a permanent card. Only permanent cards are currently valid and they can be identified by the signature of a past or present Commissioner of Internal Revenue.

(2) *Notice of Disbarments, Suspensions and Reprimands*—Service officers and employees may consider the holder of a permanent enrollment card duly authorized to practice before the Service unless advised to the contrary. Disbarments and consent suspensions revoke eligibility to practice whereas reprimands do not. Reprimands seek to insure future compliance with all regulations governing such practice. Announcements of disbarments and suspensions are published in the Internal Revenue Bulletin and summarized quarterly in Document No. 5528, Quarterly Report of Disciplinary and Related Action, which is distributed to each district office. The Director of Practice will forward a copy of each reprimand to the appropriate District Director or his/her designee in streamlined districts.

4052.4 *(8–6–80)*
Applications for Enrollment

(1) *New Enrollments*—Persons who meet the eligibility requirements for enrollment and wish to be enrolled to practice before the Internal Revenue Service should complete and submit the application, Form 23 (Application for Admission to Practice Before the IRS) with $25 application fee in accordance with instructions on the form. It is essential that applications be complete. Each application will be investigated to determine the correctness of statements, and whether facts or circumstances exist which reflect unfavorably upon the applicant.

(2) Candidates must file Form 23 (Application for Enrollment to Practice Before the Internal Revenue Service) within one year from the date of the notification letter.

(3) *Processing of New Enrollment Applications (successful Special Enrollment Examination candidates)*

(a) Applications for enrollment are processed in the National Office Examination Division (CP:E:E:C). After preliminary examination and processing, the application is forwarded to National Office Internal Security Division, Attention: I:IS:OA for investigation with Form 2426 (Enrollment Investigation Request) for control purposes.

(b) National Office Internal Security Division will send the initial information simultaneously to the FBI for a name and criminal record check and to district Centralized Services Branch/Section for simultaneous circularization through Collection, Criminal Investigation and Examination functions.

(c) The Chief, Examination Division and the appropriate Collection and Criminal Investigation functional official will be responsible for the control and processing of enrollee application cases through their respective function. Each function will ascertain from its files and from key subordinate officers if there is any unfavorable information regarding the enrollee applicant. It will submit such information to Centralized Services Branch/Section in a double sealed envelope, to be opened by addressee only, within 30 days from receipt of Form 2426. The envelope will be addressed to Regional Inspector and Form 2426 will be attached to the outside of the envelope. Any envelope received without an attached Form 2426 will be immediately returned by Centralized Services Branch/Section to the sending function. Each functional official will be responsible for the control and processing of the cases through his/her respective function to ensure that they are returned within the prescribed 30 days. If a case cannot be returned within 30 days the functional official will notify, in writing, the Chief, Centralized Services Branch/Section when the case will be returned.

(d) Derogatory information subsequently received by National Office Internal Security Division from the FBI will be sent to the appropriate Regional Inspector.

(e) District Centralized Services Branch/Section will return all favorable case information directly to the N[illegible] Office Internal Security Division Atten[illegible]OA-Control Section, Room 6006, 1111 Constitution Ave., Washington, DC 20024. All derogatory case information will be sent to the appropriate Regional Inspector.

(f) The Regional Inspector will conduct the necessary investigation concerning derogatory information received from Centralized Services Branch/Section and/or the FBI check, and will forward a report to the National Office Internal Security Division, Attention: I:IS:OA-Control Section. This investigation will include contacting other districts, when necessary, for any information that may be available.

(g) National Office Internal Security Division I:IS:OA will, when necessary, contact other districts for collateral information on favorable cases.

(h) Barring adverse information, an application should be processed in 2 to 4 months. Deficiencies in an application will delay the processing. Any applicant whose report of investigation raises a question as to his/her eligibility will be so advised and given an opportunity to submit additional information and to request an opportunity to be heard before a final decision is made. Any applicant who is denied enrollment will have 30 days to file a written appeal to the Director of Practice.

(4) Processing Enrollment Applications from Former Employees Based upon Prior Service.

(a) Applications are processed in the National Office Examination Division (CP:E:E:C). After preliminary examination and processing, the application is forwarded to National Office Internal Security Division, Attention: I:IS:OA for investigation.

(b) In accordance with Section 10.4 of Treasury Department Circular No. 230, the National Office Examination Division will simultaneously with (a) above, submit a copy of the application Form 23 and a memorandum to the appropriate officer of the applicant's former organization requesting a recommendation that such former employment does or does not qualify the applicant technically or otherwise for enrollment. If the recommendation is that the former employment does qualify the applicant, the appropriate officer should check the applicable box on the transmittal memorandum and return it to the National Office Examination Division (CP:E:E:C) within 30 days from receipt of the application Form 23. If the recommendation is that is does not, the appropriate officer must submit a detailed report to the National Office

Examination Division (CP:E:E:C) within 60 days of receipt of Form 23 explaining why the applicant does not qualify. The report will set out in detail the reasons for the recommendation of non-qualification such as lack of technical qualifications or that the former employee while employed by the Service engaged in conduct which was in violation of Treasury Department Circular No. 230. The facts must be sufficiently detailed so that the Service can be in position to deny enrollment and defend any appeal proceedings. If the report cannot be submitted within the 60-day period the appropriate functional official or delegate will notify the National Office Examination Division (CP:E:E:C) as to when the report will be submitted. The appropriate officer is the District Director or delegate; Service Center Director or delegate; Regional Commissioner or delegate; or the appropriate functional official or delegate in the National Office.

(5) *Temporary Recognition*—An applicant for enrollment may be issued a temporary recognition card to authorize practice before the Service while his/her application is pending. Requests for temporary recognition should be addressed to Director, Examination Division, CP:E:E:C, 1111 Constitution Avenue, NW, Washington, D. C. 20224, and should consist of a written request from applicant stating that:

(a) he/she has filed a proper application for enrollment with appropriate application fee;

(b) he/she knows of no reason why he/she might be considered ineligible for enrollment; and

(c) he/she has a serious need for immediate enrollment privileges and the reason, or reasons, therefor.

4052.5 *(8-6-80)*
Listing of Enrolled Agents

(1) Roster of Enrollees—The Director, Examination Division, maintains a roster of all current enrollees, and inquiries regarding a practitioner's status should be directed to him/her at 1111 Constitution Avenue, N.W. Washington, DC 20224; Attention: CP:E:E:C. Phone inquiries may be made to 202-566-4409.

(2) Computer Printout by Districts—

(a) An alphabetical computer printout listing, by districts, of agents enrolled to practice before the Service will periodically be furnished to certain field offices. Such listings will ordinarily be furnished to district offices, regional offices, service centers, and other offices to cover the respective areas serviced. The appearance of a practitioner's name on such a listing does not change the identification requirements applicable for the recognition of an enrolled agent (see IRM 4055.5:(1)(b)). The computer printouts are current only with respect to the date shown and are intended only for use as general information for any period after the date of issuance.

(b) The listings will be as error free as possible with the most up-to-date information available. Errors do, however, occur and unreported changes do take place. Therefore, we should be advised regarding any and all corrections as well as any deletions that should be made to the listing. Unreported deletions may occur when an enrolled agent passes away or when he/she becomes qualified to practice as an attorney or certified public accountant. Corrections or updating information should be reported to Director, Examination Division, CP:E:E:C 1111 Constitution Avenue, N.W. Washington, DC 20224.

(3) The Practitioners Enrollment List of December 31, 1975, and subsequent lists may be furnished to the public without violating disclosure requirements since the social security number has been removed from the listings and enrolled practitioners are considered to be acting in an entrepreneurial capacity, and, therefore, are not entitled to a right of privacy under the Privacy Act.

(4) Any release of the list to the public should contain a warning that frequently we have not been properly advised when enrolled agents change their addresses. Therefore, some of the listings may reflect old or incorrect addresses.

4053 *(6-8-76)*
Reporting of Conduct or Practice Violations by Tax Practitioners

4053.1 *(6-8-76)*
Reporting Directly to Inspection

When an officer or employee of the Internal Revenue Service learns of unethical practice by a tax practitioner which also involves alleged misconduct by a Service employee or an attempt by the practitioner to corrupt a Service employee, IRM 0735.1 at 217.4 requires that the information be reported directly to Inspection. Inspection will advise the Director of Practice or the District Director, as appropriate, of complaints or allegations against tax practitioners.

4053.2 *(8-5-81)* Reporting to the District Director

In situations other than those in IRM 4053.1, when an officer or employee in an office of the District Director has reason to believe, or receives information, that a tax practitioner has violated any of the rules, duties, or restrictions relating to practice before the Service, a written report should be promptly forwarded through supervisory channels to the District Director. The report shall contain sufficient detail, including any documentation or exhibits, to substantiate the information regarding each specific violation. Reports of violations by attorneys and certified public accountants should contain a statement regarding their recent appearance before the Service, together with a copy of declarations filed pursuant to section 10.3 of Treasury Department Circular No. 230. Disciplinary proceedings cannot be instituted against them unless they have engaged in actual practice before the Service.

4053.3 *(8-5-81)* District Director's Responsibility

(1) The District Director is responsible for referring to the Director of Practice reports of complaints or allegations concerning those practitioners who are attorneys, certified public accountants, or enrolled agents.

(2) All cases involving IRC 6694(a), 6694(b), and 6695(f) preparer penalties imposed on attorneys, certified public accountants, or enrolled agents that have been agreed to at the district level will be referred to the Director of Practice. These cases will be forwarded to the Return Preparer Coordinator (RPC), before submitting the written report required in IRM 4053.2, to the District Director through the Quality Review Staff for fowarding to the Director of Practice.

(3) Pending a determination by the Director of Practice, Department of the Treasury, Washington, DC, 20220. Service employees must continue to accord such practitioners full recognition to practice under the provisions of Circular No. 230.

(4) The District Director is responsible for exercising original jurisdiction in determining whether an unenrolled return preparer should be declared ineligible for limited practice without enrollment based upon reported conduct or practice violations. Any officer or employee of the Internal Revenue Service, who has reason to believe that an unenrolled preparer's conduct has been or is such that it would render the unenrolled preparer ineligible to appear as a taxpayer's representative before the Service, shall provide the District Director with such information. Procedural instructions for administering the rules governing recognition of unenrolled return preparers are provided in Rev. Proc. 68-20. To assist District Directors in exercising their jurisdiction, the following general principles or guidelines are provided.

(a) When appropriate, instructions may be issued to employees advising that a return preparer should not be further recognized pending a final determination as to his/her eligibility. This is a discretionary matter with the District Director. Such instructions should not be issued unless foreseeable harm is probable and a proposed determination of ineligibility letter has been or will be promptly issued to the practitioner. Pending instructions, Service employees may continue to recognize or, in the exercise of sound administrative discretion, may decline to recognize an unenrolled preparer whose conduct has been such as would render him/her ineligible for limited practice.

(b) If Criminal Investigation function is conducting a criminal investigation of an unenrolled preparer, or if a criminal case involving the preparer is pending at any level, the District Director will not take any action toward declaring such person ineligible without first consulting the division or office having control of the criminal case. Since no action will be taken that would in any way prejudice or jeopardize a pending criminal case, the clearance procedures set forth in IRM 9558.2:(4) must be followed.

(c) A proposed ineligibility determination letter issued to an unenrolled preparer should specify the violation, or violations, with reference to the appropriate section, or sections, in Rev. Proc. 68-20. The letter should also provide information similar to a bill of particulars, with respect to each specification under each charge, that the preparer is expected to answer.

(d) Issuance of proposed ineligibility determination letters to return preparers who have never sought to exercise the privilege of limited practice without enrollment is discretionary. Such letters may provide a salutary effect with respect to certain types of violations, such as advertising. Expected benefits should, of course, more than offset the processing costs to warrant issuing such a letter.

(e) Previous ineligibility determinations may be revoked or withdrawn at any time by the issuing district based upon newly discovered evidence or upon an understanding that the conduct complained of will be discontinued. The Director, Examination Division, and other offices concerned should be promptly notified.

(f) The provision in Rev. Proc. 68-20 specifying that requests for reinstatement may be filed after one year following the notice of final determination is not intended to limit the period in which a District Director may act in appropriate circumstances. Its only purpose is to curtail early nuisance type requests from preparers.

(g) Copies of final ineligibility determination letters involving return preparers who may be appearing for limited practice in contiguous districts should be submitted to the Assistant Regional Commissioner (Examination) with a statement regarding the known scope of the preparer's practice. The regional office will then advise other districts and regions, as appropriate.

(h) A district's ineligibility determinations are binding upon all Service personnel who have notice thereof. This is handled on a district basis since most return preparers practice locally. A nationwide list of ineligible return preparers would be long and cumbersome and subject to rapid and frequent changes.

(i) Each local licensee, or franchise holder, of an areawide or nationwide organization that advertises extensively for tax return preparation work should be considered separately with respect to violations. Some of these organizations do not want a licensee, or his/her employees, to appear as an advocate for the taxpayer client; rather they want him/her to appear only as a witness to explain the books, records and returns to the examiner under Rev. Proc. 68-29. In such cases, it is not necessary to declare licensees ineligible for limited practice if they do not seek to be an advocate.

(j) Each District Director will maintain an up-to-date list of unenrolled persons ineligible to represent taxpayers in his/her district. This should include final ineligibility determination letters issued locally, those of contiguous districts, and special instructions issued regarding cases pending. Examiners should be cautioned that as long as an unenrolled preparer's name appears on the list of ineligibles, he/she is not permitted to appear before them as an advocate, with or without the taxpayer, but only as a witness for the taxpayer under Rev. Proc. 68-29.

(k) A copy of each final determination of ineligibility issued by the District Director will be forwarded to the Director, Examination Division, (CP:E:E:C), 1111 Constitution Avenue NW, Washington, DC 20224, together with copies of the notice of proposed determination of ineligibility, the unenrolled preparer's reply, if one is filed, and any other related papers or documents, as required in section 9.02 of Rev. Proc. 68-20.

(l) Unenrolled preparers determined ineligible by the District Director may appeal to the Director, Examination Division (CP:E:E:C) 1111 Constitution Avenue, NW. Determinations and special orders issued by the Director, Examination Division, as a result of such appeals are final. The District Director jurisdiction to consider subsequent requests for reinstatement.

4054 *(6-8-76)*
Special Enrollment Examination

4054.1 *(6-8-76)*
Purpose of Examination

This examination is given annually to persons desiring to qualify for enrollment under section 10.4(a) of Circular No. 230.

4054.2 *(6-8-76)*
Responsibility

4054.21 *(4-2-79)* General

The Director, Examination Division, is responsible for development and validation of a new examination each year. The examination is given in each district in September or October. Each District Director will appoint a Coordinator, Special Enrollment Examination, who will be responsible for administering the examination. (see Exhibit 4050-2, Section 1.)

4054.22 *(4-2-79)* Publicity

(1) Publicity for the Special Enrollment Examination is generally confined to the period for filing applications which starts about June 1 each year and terminates August 15. The Director, Examination Division, in cooperation with Public Affairs Division, is responsible for national publicity including distribution to national accounting societies, tax services, and other news media.

(2) The District Director is responsible for local publicity including distribution to local accounting societies and news media. Proposed news releases are provided in the Taxpayer Information Material for field use in developing local releases. (see Exhibit 4050-2, Section 1.)

4054.23 *(8-5-81)* Forms and Publications

(1) The following items are relevant to the Special Enrollment Examination.

(a) *Enrollment and Special Enrollment Examination, Publication No. 486*—This publication contains general information regarding enrollment, candidate qualifications, and the Special Enrollment Examination.

(b) *Application for Special Enrollment Examination, Form 2587*—This is a five-part form revised annually and available in the field on or about June 1. It provides information as to times and dates for the current examination. Applications may be filed as soon as the form is available, but postmarked no later than August 15.

(c) *Treasury Department Circular No. 230*—This circular provides the rules governing practice before the Internal Revenue Service.

(d) *Sample of Special Enrollment Examination, Publication No. 693*—This is a reprint of a prior examination with official answers and will be used as a handout as long as the general format and content of the examination are not changed.

(2) Individuals unfamiliar with the examination are expected to first ask for Publication 486, which will be available in district offices around late May/early June. If after reading Publication 486 they decide that they want to take the examination they should request a Special Enrollment Examination Materials Packet which will also be available around late May/early June. The packet will include application Form 2587 with a return envelope and other documents necessary to prospective candidates.

(3) Form 4190A, Special Enrollment Examination (SEE) Study Material Request and Mailing Label, which can be used by candidates to order the study materials listed in Publication 486. Candidates should complete Form 4190A and mail it to the nearest IRS regional distribution center as instructed on the back of the form.

(4) Taxpayer Service will refer all requests for bulk supplies of study materials to the local Special Enrollment Examination Coordinator who will review the requests and approve those deemed legitimate. Form 4190A orders approved by the Coordinator should be marked SEE in red ink on the face of the form. Coordinators will record all such approvals and include a listing of such organizations and the number of applicants covered as part of their final report following the examination (see IRM 4054.32).

(5) Applicants may order any materials not available from the Internal Revenue Service from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

4054.3 *(6-6-76)*
Procedure for Conducting Special Enrollment Examination

4054.31 *(8-5-81)*
Procedure Prior to Examination

(1) Each district is responsible, early in the application filing period, for notifying the Director, Examination Division, CP:E:E:C, of the following:

(a) full name, position title, room number, telephone number and specific street address of the person designated as Coordinator, Special Enrollment Examination by the end of the second week of April of each year;

(b) distribution of local publicity releases for the examination;

(c) that all forms and publications regarding examination requirements and information are available to all potential candidates during the period for filing applications; and

(d) that the district has an adequate supply of Form 3736 (Answer Sheet for Special Enrollment Examination) or request the number of answer sheets which are needed for the examination from the Director, Examination Division, CP:E:E:C, 1111 Constitution Avenue, NW, Washington, DC 20224.

(2) *Criteria for Planning*—The Coordinator will arrange for examination sites, monitors, and materials based on the number of candidates participating in his/her district. Form 2587 (part 4) for each candidate will be forwarded to the district by the end of the first week in September. The Coordinator should allow for any additions due to last minute changes. The district's experience in prior examinations is usually a sound basis for advance planning. The Director, Examination Division, will advise districts should any abnormal trends be noted during the processing of applications.

(3) *Examination Site*—

(a) Each district will offer the examination in the district headquarters city. The District Director may also designate other cities within the district if it would benefit a sufficient number of candidates. Districts should observe prior commitments made in cities where former district headquarters were located.

(b) The Coordinator should arrange for examination sites through the appropriate district office: Chief, Resources Management Division, or Chief, Facilities Management Branch (or administrative officer in streamlined districts). Each site should have adequate space, light, and ventilation without undue noise or other disturbing factors to assure candidates a fair opportunity to demonstrate their ability.

(c) Training and conference rooms should be utilized, if possible. If not available, other government facilities, should be considered. Normally, it should not be necessary to incur expense to acquire the examination site. However, if only rented space is available, regional office instructions should be followed.

(d) Coordinators may want to prepare a briefing paper for candidates specifying such items as parking facilities, coffee shops, restaurants, restrooms, etc. The briefing paper could be mailed to the candidates along with Part 3 of Form 2587 (see (7) below).

(4) *Examination Monitors*—The Coordinator should arrange for sufficient examination monitors to assist him/her in providing necessary supervision of the examination.

(5) *Materials for Candidates*—Candidates are instructed that all necessary materials will be furnished and that they are not to bring any books, papers, or equipment to the examination room. *The Coordinator must provide sufficient No. 2 pencils for use during all four parts of the examination.* Pencil sharpeners and scratch paper should also be provided for the candidates. Candidates may use their question books for making computations during the examination and may retain the books after examination.

(6) *Examination Question Books (Publication 869, Special Enrollment Examination Booklet) and Examination Answer Sheets (Form 3736, Special Enrollment Examination Answer Sheets)*—

(a) The examination question books will be similar to those used in prior years. They will be shipped to the district coordinator by a special traceable method for security purposes. The examination question books will be shipped in cartons and will be properly labeled as to contents. For reasons of security the units will not be broken. In most instances, the quantities received will be in excess of the actual requirements. If the examination question books are not received by the end of the last week in August, the Coordinator, Enrollment and Practice Program, National Office, should be notified by telephone (area code 202, 566–4409).

(b) When the examination question books are received, the Coordinator should open the cartons and verify the contents. It must be emphasized that from the time these materials are received until the examination is over, it is of utmost importance that extreme care be used in handling these books. *Under no circumstances are unauthorized persons to see the examination question books.* The Coordinator should arrange for space in which these books can be stored under "lock and key" prior to the examination.

(c) Form 3736 (Special Enrollment Examination Answer Sheets) consists of a single sheet of paper with a different color used for easy identification of each part. These answer sheets will be shipped direct to the Coordinator no later than July. *These answer sheets should not be bent or folded during shipment or storage or we will not be able to machine grade them.* (See Exhibit 4050–2, Section 3.01).

(7) *Form 2587*—Coordinators will receive parts 3 and 4 from the National Office, Examination Division (CP:E:E:C). Part 3 will be mailed to the candidate. A file will be established for Part 4 which has the applicant's photograph attached and is to be used for identification purposes to ensure that the person appearing to take the examination is the proper candidate. These forms are designed for window envelopes. Item 4 is to indicate the exact location (address, room number, etc.) of the examination.

(8) *Report on Arrangements for Examination*—No later than twenty-one (21) calendar days prior to the examination date, the Coordinator will send a report to the Director, Examination Division, CP:E:E:C, verifying the following:

(a) that the examination books have been received;

(b) that Parts 3 and 4 of Form 2587 have been received; Part 3 has been mailed to the candidate; a file established for Part 4; and Form 4157 (Special Enrollment Examination List) has been prepared.

(c) that arrangements have been made for examination sites, supplies, monitors, etc. (The exact location of the examination site, or sites, should be provided.).

(9) If the candidate gives advance, or prompt, notice of accident, illness or other emergency (reasonable cause), that prevents his/her taking the examination, credit on the application fee for next year's examination will be approved by endorsement of the district coordinator, or designee, on the back of the candidate's examination credential, Part 3, of Form 2587. In such cases the district coordinator will return Part 3 with the endorsement to the applicant and advise him/her to submit the endorsed examination credential (Part 3) in lieu of an application fee with next year's application.

4054.32 *(8-5-81)*
Procedure During Examination

(1) The Coordinator should allow only authorized candidates to participate in the examination. To ensure that the person appearing to take the examination is the candidate the Coordinator will inspect Part 3, Form 2587 of each candidate who appears and will request that the candidate *sign the reverse side* of Part 4, Form 2587 at that time. He/she will then compare this signature with the signature on the face of Part 3 and discuss any apparent dissimilarity with the candidate. No person professing to be the candidate will be barred from taking the examination as a result of the signature comparison; however, a candidate's explanation of any material discrepancy should be noted and attached to Form 2587 (Part 4) at the completion of the examination. In addition to inspecting the candidate's signature on the reverse side of Part 4, Form 2587, the coordinator or designee will compare the photograph on the back of Part 4, of Form 2587 with the person appearing to take the examination.

(2) The National Office will make further comparison of signatures before granting enrollment to successful candidates. The Coordinator should re-examine all credentials as he/she distributes the material for each part of the examination. At the conclusion of the examination, all Forms 2587 (Part 4) are to be returned to the Director, Examination Division, as provided in IRM 4054.33:(5).

(3) A candidate arriving late for any part of the examination may, at the discretion of the coordinator or designee, be allowed to take that part provided the candidate has a reasonable excuse such as car failure, unusual traffic problems, family emergency, etc. Additionally, the candidate must sign and date a statement that he/she did not discuss the examination with anyone prior to arrival and that he/she must complete that part within the alloted time frame. For instance, if the time frame is 9:00–12:00, the candidate cannot go beyond 12:00.

(4) The Coordinator should become thoroughly familiar with the instructions printed on the first page to each question book. Candidates should be closely supervised to ensure that the instructions are followed.

(5) The Coordinator will distribute the proper materials to the candidate prior to each of the four sessions. He/she must place his/her examination candidate number as shown on his/her Part 3, Form 2587 on each answer sheet.

(6) The examination is designed to provide complete instructions to the candidate. Ordinarily, the Coordinator should not have to provide any information pertaining to questions. There is a possibility, however, that flaws will appear due to printing errors which were not discovered during the review and editing. The Coordinator should make any decisions or interpretations necessary to remedy the situation. Such a situation should be noted and a statement forwarded to the Director, Examination Division, CP:E:E:C, 1111 Constitution Avenue, NW, Washington, DC 20224, with the general comments on the examination.

(7) Generally, monitors should accompany the applicants when they leave the room during the examination. Any candidates leaving the room for any reason should be instructed to cover their answer sheet and take his/her Part 3 with them since they must present it to reenter the room.

(8) Evidence of suspected cheating or other improper conduct should be evaluated by the examination Coordinator. If, in his/her judgment, the candidate acted improperly, the Coordinator should exclude the candidate from further participation in the examination and request him/her to leave the premises.

(9) The Coordinator, or on-site monitors, should complete Form 4157 (Special Enrollment Examination List) in accordance with instructions on the form. In the section of the form designated for comments of the Coordinator, there should be included comments regarding the following.

(a) Flaws or errors noted in the examination question books with interpretations made to remedy the situation. See IRM 4054.32:(6).

(b) Any unusual circumstances concerning examinees, such as handicapped persons taking the examination, and any special arrangements made to accommodate them.

(c) Examination sites where rented space was used and the cost thereof.

(d) Estimated number of years supply of examination answer sheets remaining on hand.

(e) Unusual local developments that may have an effect upon the number of persons applying for next year's examination.

(f) List of organizations requesting bulk supplies of study materials and number of applicants covered by each organization.

4054.33 *(8-5-81)*
Procedure Subsequent to Examination

(1) The district Coordinator will arrange to have each candidate's answer sheet verified to ensure that the candidate's name, number, and regional and district office code numbers are correct. Any errors are to be corrected by the Coordinator or his/her designee.

(2) After the examination the district Coordinator will arrange to have a copy made of each candidate's answer sheets. Security measures will be taken to ensure that none are lost. Also, care must be taken during the copying process to prevent any damage since answer sheets with bent or torn edges, etc., cannot be computer processed. Do not use rubber bands or paper clips since they can inflict such damage. The copies of the answer sheets will be retained by the district Coordinator until December 31 of each year. They will be destroyed after this date unless so notified by the National Office CP:E E:C.

(3) Within three (3) work days after the examination is completed, the Coordinator should complete the summary and comments required on Form 4157. A quality check should be made to assure that:

(a) candidates are listed in numerical order by Candidate Number;

(b) transfers to another district are "Red Lined" and not counted in page totals;

(c) symbols are entered for status of candidates (item 2 of Instructions on back of Form 4157);

(d) summary totals on last page of Examination List are in balance. It is important that these figures be accurate since they are the basis for a number of reports which are used in the Service and are released to the public; and

(e) if a candidate did not complete or did not take an examination part(s), please make sure that a remark is included on this form as required by the instructions.

(4) Coordinators must sign and date Form 4157 to confirm that all of the information contained therein is correct and that quality checks of all answer sheets have been made.

(5) Upon completion of Form 4157, the items listed below should be carefully packed and shipped by a special traceable method for security purposes to the Director, Examination Division, CP:E:E:C, 1111 Constitution Avenue, NW, Washington, DC 20224.

(a) *Important*: In order to prevent problems with the machine grading process, the completed answer sheets must be packed in such a manner that they will not get folded, bent, crimped, torn or otherwise mutilated. (Unused examination booklets and answer sheets should not be returned.)

(b) The completed Form 4157.

(c) All original Forms 2587 (Part 4) signed by candidates taking the examination.

4055 *(6-8-76)* Recognition Guidelines

4055.1 *(6-8-76)* Introduction

These guidelines are to assist Service personnel in applying rules and regulations that must be observed in dealing with persons appearing for others in tax matters. (See IRM 4051.) They are not all inclusive, nor a substitute for reference to applicable rules and regulations; rather they are general principles and interpretations made regarding questions that have arisen. The chart of Recognition and Authorization Requirements for Persons Appearing Before the Service, Exhibit 4050-1, is a ready reference of general recognition rules and requirements.

4055.2 *(6-8-76)* Recognition Requirements

4055.21 *(6-8-76)* General

(1) When dealing with a person other than the taxpayer, the examiner has two things to bear in mind: that Service personnel are prohibited (IRC 7213) from disclosing tax information of a confidential nature to unauthorized persons; and that practice before the Service is restricted to properly qualified persons under provisions of Circular No. 230.

(2) If taxpayer's representative is recognized in accordance with the provisions of 26 CFR 601.502(b), he/she should be accorded all due rights and privileges in the representation of his/her client. See also IRM 4055.5, Qualification for Practice.

(3) 26 CFR 601.502(c) sets forth the requirements of a power of attorney or a tax information authorization in certain cases. Although an authorization form is used to expand or define the representative's authority, it is not essential to his/her recognition as a representative. Such forms are ordinarily needed to authorize the representative to receive tax information of a confidential nature, when the taxpayer is not also present, or to perform certain specific acts for the taxpayer.

(4) A qualified representative's rights and privileges include the right to be present whenever his/her client is interviewed, interrogated, or requested to furnish information to the Service. This right should be respected by Service personnel at all times. In most instances, this will mean that arrangements for the direct examination or investigation of the taxpayer are conducted through his/her representative. A representative may, of course, waive this right as is frequently done during the civil examination of a client's books and records. However, such a waiver is not to be presumed but must be specific in each case. If orally given by the representative, it should be clearly noted in the case file.

4055.22 *(4-2-79)*
By-Pass of Taxpayer's Representative

(1) When a recognized representative has unreasonably delayed or hindered an examination by failing to furnish, after repeated requests, nonprivileged information, the examiner may report the situation, through channels, to his/her division chief and request permission to contact the taxpayer directly for such information. The Chief, Examination Division, or District Director in streamlined district will carefully consider the situation and make a determination as to whether such permission should be granted. If such permission is granted, the case file will be documented with sufficient facts to show how the examination or investigation was being delayed or hindered and written notice of such permission, briefly stating the reasons why it was granted, will be given to the representative and the taxpayer. The written notice will be provided by the chief granting the permission to by-pass the representative.

(2) Permission to by-pass the representative and to contact the taxpayer directly as provided in (1) above does not constitute suspension or disbarment of the practitioner; and he/she may continue to represent his/her client if he/she makes an appearance. Further, he/she will be afforded the courtesy of being advised regarding the time and place of future appointments with the taxpayer.

(3) The unreasonable delay or hindrance of an examination or investigation by a recognized representative which results in permission being granted to by-pass the representative under (1) above, may also be referred to the Director of Practice for possible disciplinary proceedings under section 10.23 of Circular No. 230 if the District Director deems it advisable. The two separate provisions in the regulation, although similar, are not intended to be either mutually inclusive or exclusive. The provision in the Conference and Practice Requirements is intended only to enable the Service to expedite a particular examination or investigation. The provision in Circular No. 230 is intended as a duty or restriction relating to practice before the Service; and violations by attorneys, certified public accountants and enrolled agents are subject to disciplinary action. See IRM 4053 for reporting of conduct or practice violations by practitioners.

4055.23 *(8-6-80)*
Prohibitions Against Practice by Otherwise Qualified Practitioners

(1) Provisions in Treasury Department Circular No. 230 provide a number of restrictions or prohibitions against practice or appearances by otherwise fully qualified practitioners. The full text of the restrictions or prohibitions are too lengthy for restatement here but the general subject of the applicable restriction or prohibition with reference to the appropriate section of the Circular are set forth below.

(a) Officers and employees of the United States Government, and agencies thereof, are subject to a general prohibition against practice before the Service but there are limited exceptions thereto. See subpart A; section 10.3(f), Circular No. 230.

(b) Officers and employees of any State, or subdivision thereof, are prohibited from practice before the Service if such State employment may disclose facts or information applicable to Federal tax matters. See subpart A; section 10.3(g), Circular No. 230.

(c) Any former officer or employee of the United States Government is prohibited from representing anyone in any matter administrated by the Service if such representation would violate any laws of the United States. See subpart B; Section 10.26(b)(1), Circular No. 230.

(d) Any former officer or employee of the Government who participated in a transaction cannot represent or knowingly assist, in that transaction, any person who is or was a specific party to that transaction. See subpart B; Section 10.26(b)(2), Circular No. 230.

(e) Any former officer or employee of the Government who within a period of one year prior to the termination of his/her Government employment had official responsibility for a transaction cannot, within one year after his/her Government employment is ended, represent or knowingly assist in that transaction any person who is or was a specific party to that transaction. See subpart B; Section 10.26(b)(3), Circular No. 230.

(f) Any former officer or employee of the Government cannot within one year after termination of his/her Government employment, appear before any employee of the Treasury Department in connection with the publication, withdrawal, amendment, modification, or interpretation of a rule in the development of which the former Government employee participated or for which, within a period of one year prior to the termination of his/her Government employment, he/she had official responsibility. See subpart B; Section 10.26(b)(4), Circular No. 230. Further, subpart B; Section 10.24(c) of Circular No. 230 prohibits the acceptance of such aid or assistance from former Service employees.

(g) Subpart B, Section 10.26(c), Circular No. 230 places certain restrictions on representation by a firm of which a former Government officer or employee is a member.

(h) Partners of an officer or employee of the executive branch of the U.S. Government, or agency thereof, are prohibited from representing anyone in any matter administered by the Service if such officer or employee has participated personally and substantially as a Government officer or employee, or which is the subject of his/her official responsibility. See subpart B; section 10.25, Circular No. 230.

(2) If any person appears to represent a taxpayer under circumstances indicating a possible violation of the prohibitions set forth in IRM 4055.23:(1) above, Service employees should advise the individual concerning the existence and content of Circular No. 230. If a practitioner believes that he/she does not come within the purview of any section of the Circular restricting or prohibiting his/her appearance in the matter, he/she may be recognized and allowed to appear as a representative at his/her own risk with the understanding that the matter will be fully reported to the Director of Practice for consideration of and possible disciplinary action. To do otherwise would constitute a summary suspension of his/her right to practice without an opportunity for a hearing and a violation of the rules applicable to disciplinary proceedings. The Office of the Director of Practice may be contacted by telephone (202-376-0767) for an informal opinion on the matter prior to the holding of a meeting or conference.

4055.3 *(6-8-76)*
Disclosure of Tax Information of a Confidential Nature

(1) The Conference and Practice Requirements provide the rules regarding how an individual may be authorized to inspect or receive tax information of a confidential nature. The authorization is usually written; but, under certain circumstances it may be excepted from requirements under 26 CFR 601.502(c)(3). The most frequent exception is oral or implied consent for disclosure which arises when taxpayer is also present at a conference. This authorization is limited to the period the taxpayer is present. If a potential fraud issue, or other sensitive matter, comes up during a discussion when a witness is present, the examiner should suggest that perhaps the taxpayer would prefer to have the witness excused so that they may discuss it in private.

(2) The Tax Information Authorization, part I of Form 2848-D (Authorization and Declaration), or similar form, authorizes anyone to inspect or receive tax information of a confidential nature. The power of attorney also provides such authorization; but, since it also authorizes other acts performed only by a qualified representative, its use is generally limited to attorneys, certified public accountants, and enrolled agents.

(3) The taxpayer may authorize anyone, including a witness, to receive tax information of a confidential nature. Further, the taxpayer has the right, under Rev. Proc. 68-29, to have anyone appear for him/her as a witness to explain his/her books, records, or returns to the examiner. Thus the Service, on occasion, must deal with persons who are ineligible for practice.

4055.4 *(4-2-79)*
Notices or Other Written Communications To Be Furnished to Representatives

(1) 26 CFR 601.506(a) provides that any notice or other written communication given to a taxpayer in a matter before the Service shall also be given to the taxpayer's recognized representative. However, if such notice or communication contains tax information of a confidential nature, the notice or communication will be given to the representative only if there is a valid Power of Attorney, Tax Information Authorization, or similar form on file which authorizes the disclosure. The term "recognized representative" means a representative who is recognized to practice before the Service as prescribed in 26 CFR 601.502(b) and includes attorneys, certified public accountants, enrolled agents, and persons qualified for temporary recognition or limited practice without enrollment. Since practice by an unenrolled return preparer is limited to the *examination process* in the District Director's office, he/she will not generally receive any notices or other communications after the first report showing completion of the examination.

(2) If the taxpayer designates more than one representative, it will be the practice of the Service to give copies of such notices or other written communications to two, but not more than two, representatives so designated, but only if the two representatives have different mailing addresses. When the taxpayer does not designate which representative is to receive notices, the notice will be sent to the representative first named on the most recently filed instrument. In unusual cases, copies of notices in excess of those authorized above may be given.

(3) The term "notices and other written communications" covers all written communications directed to the taxpayer by the Service, including examination appointment letters, determination letters, no change reports, agreed reports, notices like Letter 987(C/DO/IO) informing taxpayer that his/her case is closed out of Examination function, preliminary notices (10, 15 or 30-day letters), and statutory notices.

(4) Copies of notices and other written communications may also be furnished to persons who are not qualified to practice before the Service if they are properly authorized to receive such notices by a Tax Information Authorization or similar form. This is a discretionary procedure to be used when it will be in the Service's best interest.

4055.5 *(6-8-76)*
Qualification for Practice

(1) To practice—appear as an advocate for another—a representative must present satisfactory identification. Identification requirements for the different classes of representatives are as follows.

(a) An attorney or certified public accountant must present, or have on file, a written declaration that he/she is currently qualified as an attorney or certified public accountant and is authorized to represent the particular party. Part II of Form 2848-D, or similar form, may be used for this purpose. Part II may be used separately or in conjunction with Part I, Tax Information Authorization. The revised Power of Attorney, Form 2848, also includes a declaration. If an attorney or certified public accountant appears under a power of attorney or Tax Information Authorization which does not contain a declaration executed by him/her, a separate declaration will be obtained prior to recognition by the Service.

(b) An enrolled agent must present his/her permanent enrollment card. In correspondence cases, the representative should submit a statement that he/she is enrolled and give his/her enrollment card number. The declaration on Forms 2848 and 2848-D may be used by enrolled agents for this purpose. (See IRM 4052.5: (2)(a).)

(c) A person qualifying under section 10.7, Limited Practice Without Enrollment, Circular No. 230, must present evidence to show that he/she is who he/she purports to be and that he/she meets the necessary requirements for such appearance.

(d) A person qualifying under section 10.5(c), Temporary Recognition, Circular No. 230, must present his/her valid temporary recognition card.

4055.6 *(8-6-80)*
Powers of Attorney, Tax Information Authorizations and Declarations

(1) Form 2848 (Power of Attorney) and Form 2848-D (Authorization and Declaration) are designed to meet Service authorization and qualification requirements. Privately designed authorization forms may be used, but they must contain the basic requirements regarding the scope of authority granted and specify the tax matter to which the authority relates.

(2) Immediately upon receipt, Examination Division employees will have a copy made of the power of attorney or authorization and send the original to the district Centralized Services Branch. The copy must be annotated "original sent to CSB and the date". District Centralized Services Branches will be responsible for immediately forwarding the original to Service Centers for inclusion in their POA files.

(3) Service employees must associate the copies of all powers of attorney, authorizations, and declarations filed with the related tax returns or documents, so that the record remains clear for each tax matter. This requirement applies to the instrument originally filed and all subsequently filed instruments, including revocations, substitutions, etc. The instruments should be assembled in chronological order with the latest on top and attached to the appropriate tax return or other document.

(4) Obtaining sufficient copies of instruments from representatives may present a

problem since each tax imposed for each taxable period constitutes a separate tax matter. Regulations require submission of sufficient copies of authorizations for each tax matter involved. An attorney or certified public accountant, however, is required to file only one declaration for a particular party to be represented, regardless of the number of tax matters involved (P.L. 89-332 and 26 CFR 601.502(b)). The Service must, therefore, be prepared to make extra copies of declarations when needed. Of course, if practitioners use the Service's Power of Attorney and Tax Information Authorization forms and execute the declarations thereon, the problem will resolve itself.

(5) Service employees should not request submission of evidence of recognition when a copy is with the file on the tax matter under consideration and there is no evidence that the authorization or declaration is invalid.

(6) Declarations on Forms 2848 and 2848-D provide space for execution by attorneys, certified public accountants, and enrolled agents. Regulations do not, however, require execution of declarations by enrolled agents. The space for execution by enrolled agents is designed only as a convenience for certifying taxpayer's signature on power of attorney in lieu of witnessing or notarization, or for giving the required statement as to enrolled status when practicing by correspondence.

(7) In normal circumstances, anyone who is not an attorney, certified public accountant or enrolled agent is required to have page 2 of Form 2848, Power of Attorney, notarized. This requirement will be waived for approved participants in the Student Tax Clinic Program. Form 2848 will be acceptable without notarization if completed as follows: (See Exhibit 4050-3)

(a) beneath the paragraph beginning "hereby appoints" on page 1, the name of the faculty member should appear under the name of the student; and

(b) under the designation column, on page 2, the words "student attorney" or "student accountant" are to be inserted, followed by the words "faculty member" on the line below; and

(c) in the jurisdiction or enrollment column, the student should enter "Special Orders (Date), General Counsel, Department of Treasury" and the faculty member should enter the appropriate information; and

(d) the student and faculty member sign and date the Form 2848 in the spaces provided; and

(e) A copy of the letter from General Counsel authorizing the student to engage in practice before the Internal Revenue Service should be attached to Form 2848.

(8) When a person appears before the Service under a valid authorization but no declaration is required, or filed, the Service employee should note in the space for the declaration the capacity in which the person appeared for the taxpayer together with date and signature. For example, an examiner's entry in Part II of Form 2848-D might read as follows:

June 3, 1968

John Jones

Tax Technician

(9) Entries such as the above will help avoid future problems regarding recognition to be accorded in the furnishing of notices.

4056 *(6-8-76)* Miscellaneous Enrollment and Practice Questions and Answers

4056.1 *(6-8-76)* Introduction

The following paragraphs present a series of frequently asked questions and the answers thereto should assist Service personnel in interpreting and applying the rules and regulations.

4056.2 *(8-6-80)* Questions and Answers

(1) *Question.* Does an inactive attorney who was once a member of the bar of the highest court in Michigan, but now lives in California, meet the definition of "attorney" as set forth in section 10.2(b), Circular No. 230? *Answer.* Yes. An attorney does not have to be a member of the bar of the highest court in the State of his/her residence, nor does he/she have to be in active practice. It is sufficient if he/she has been admitted to the bar of the highest court of any State and has not subsequently been disbarred or suspended. Payment of annual dues or assessments to retain an active status is not a prerequisite for an attorney to be considered a "member in good standing" as defined in section 10.2(b), Circular No. 230.

(2) *Question.* Will a person who has successfully passed the C.P.A. examination, but has not yet met the State's experience requirements, meet the definition of a "certified public accountant" as set forth in section 10.2(c), Circular No. 230? *Answer.* No. Such person is not yet duly qualified to practice as a certified public accountant in any State.

(3) *Question.* Rev. Proc. 68-20, provides that "when the District Director receives information, either before or after an unenrolled preparer has been recognized, indicating that the preparer's conduct, practice, or employment has been or may be such as to render him ineligible to represent taxpayers, the District Director will issue a written notice to the unenrolled preparer of a proposed determination of ineligibility." Does this mean that the district must proceed against every practitioner who advertises for return preparation work? *Answer.* No. Rev. Proc. 68-20 is applicable only to unenrolled individual preparers of returns who seek to represent taxpayers during the examination. As provided in IRM 4053.3:(2)(d), District Directors may issue proposed ineligibility determination letters to practitioners who have never sought to represent taxpayers (other than as a witness) for its salutary effect; but the Service actually has no jurisdiction over such return preparers. Examiner's reports on violations by return preparers should, therefore, contain a statement as to whether he/she has knowledge that preparer has sought to represent taxpayers. District Directors must proceed against return preparers for reported violations if they have knowledge that the preparers come within the scope of the Revenue Procedure.

(4) *Question.* Can an attorney who is under suspension or disbarment from practice before the Service appear before Service employees as a witness or in any other capacity? *Answer.* Yes. The Service must work with an attorney who is suspended or disbarred from practice when he/she appears as a witness for the taxpayer, since such an appearance would not constitute practice as defined in Circular No. 230 and to do otherwise would infringe upon the taxpayer's rights as set forth in Rev. Proc. 68-29. Such person may also appear for limited practice under the exceptions provided in section 10.7(a)(1) through 10.7(a)(6) of Circular No. 230 since there is no prohibition against it. This result was by design because the person would, in most instances, be appearing as the taxpayer or his/her alter ego.

(5) *Question.* When an enrollee accepts employment with the Internal Revenue Service, must he/she turn in his/her card and request that he/she be placed in an inactive status? *Answer.* No. The prohibition against enrollment of Government officers and employees was eliminated in the September 1966 revision of Circular No. 230, Section 10.3(e). Circular No. 230 now prohibits practice by such employees, but they may retain their cards and their active status on the enrollment roster. Rules pertaining to standards of conduct for employees will be revised accordingly.

(6) *Question.* What recognition should be accorded to an attorney who submits the required declaration but has no authorization signed by the taxpayer? *Answer.* The attorney has the right to appear as an advocate regardless of whether he/she is authorized by the taxpayer to receive tax information of a confidential nature or to perform other acts. Of course, Service employees must judiciously observe restrictions against unauthorized disclosure while according him/her the right to practice as required under Public Law 89-332 and applicable regulations.

Recognition and Authorization Requirements for Persons Appearing Before The Service

Capacity of Person Appearing *(Each category includes all categories listed below it)*	Attorneys and CPA's	Enrolled Agents	Unenrolled Persons who are not Attorneys or CPA's		
			Qualified for Limited Practice Under Sec. 10.7 of Cir. No. 230		All Others
			Return Preparers	Others	
1. As an advocate who is to perform certain acts for taxpayer as prescribed in 26 CFR 601.502(c)(1) (Constitutes "Practice" as defined in Cir. No. 230)	P/A and D Exception (2) may apply	P/A and E	Ineligible	P/A Exception (2) may apply	Ineligible
2. As an advocate (Constitutes "Practice" as defined in Cir. No. 230) who may receive tax information of a confidential nature but is not to perform other acts for taxpayer as prescribed in 26 CFR 601.502(c)(1).	TIA and D Exception (1), (2) or (3) may apply	TIA and E Exception (3) may apply	TIA Exception (4) applies	TIA Exception (2) or (3) may apply	Ineligible
3. As a witness who may receive or inspect tax information of a confidential nature (Does not include "Practice" as defined in Cir. No. 230)	TIA Exception (1) or (2) may apply	TIA	TIA	TIA Exception (2) may apply	TIA
4. As a witness for taxpayer to present his books, records or returns to the examining officer (Does not include "Practice" as defined in Cir. No. 230)	No requirements	No requirements	No requirements	No requirements	No requirements

CODE FOR REQUIREMENTS

P/A—Must present or have Power of Attorney on file
TIA—Must present or have a Tax Information Authorization (or Power of Attorney) on file if taxpayer is not also present.
D—Must present or have a Declaration on file. Declaration may be in combination with a TIA or Power of Attorney.
E—Must present evidence of current enrolled status or temporary recognition status.

EXCEPTIONS

(1) An attorney who prepared the estate tax return and is the attorney of record for the estate will not be required to have a TIA on file, but a Declaration must be on file. (26 CFR 601.502(c)(3)(ii))
(2) A trustee, receiver, or an attorney (designated to represent a trustee, receiver or debtor in possession) may substitute a proper court certificate or a copy of a district court order approving bond in lieu of a P/A or TIA. (26 CFR 601.502(c)(3)(iii))
(3) A TIA is not required if the advocacy can be performed without necessitating Service disclosure of tax information of a confidential nature. (26 CFR 601.502(c))
(4) Unenrolled return preparers are limited to representation of persons during the examination process (ineligible for practice at District or Appellate Conferences). (Sec. 10.7(a)(7), Cir. No. 230)

1981 Special Enrollment Examination Procedures

Action Dates October 5, 6 and 9, 1981

Purpose

This Exhibit provides additional procedures for administering the Special Enrollment Examination in 1981 as follows:

Section 1. Special Enrollment Examination

.01 The 1981 examination is scheduled for October 5 and 6. Applicants must submit Form 2587, Application for 1981 Special Enrollment Examination, to the Chief, Accounting Section, RM:N:FA, Room 6603, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, postmarked no later than August 17, 1981. No extensions will be granted beyond that date. The applications must be accompanied by a recent photograph (no larger than 3 inches square) of the applicant, which will be used for identification only.

.02 The application fee of $50 for taking all parts of the examination or $40 for taking 1, 2, or 3 parts failed in 1980 is not refundable, however, a credit may be granted to apply on the next year's application fee as provided in the instructions on the back of Form 4157 (Special Enrollment Examination List).

Section 2. Examination Parts to be Taken

.01 All four parts of the examination must be taken if the candidate has never taken the examination before; took the examination prior to 1980 and failed; or took and failed all four parts of the 1980 examination. Candidates taking all parts of the examination will be assigned candidate numbers 2601 to 9999 for identification and control purposes.

.02 Applicants who took the 1980 examination and failed 1, 2 or 3 parts have been given credit for the part(s) passed in 1981 and will need only take the part(s) failed in 1980. Partial examination candidates will be assigned candidate numbers 601 to 2600 for identification and control purposes. Credit for the part(s) passed may be carried over for only 1 year. However, in unusual circumstances, the Director, Examination Division may, upon written request, extend the credit carryover one additional year.

.03 Candidates must pass *all* 4 parts of the examination within a successive 2 year period or retake the examination in its entirety.

Section 3. Examination Answer Sheets

.01 Form 3736 (Special Enrollment Examination Answer Sheets) are the same as those used in 1980.

.02 The candidates will be instructed for each part of the examination to darken completely, with a No. 2 pencil, the oval under the letter of the answer they choose. Also, the candidates should be reminded to darken only one oval for each answer and in making corrections, errors must be erased completely. Stress very heavily on the candidates that these answer sheets should not be folded, spindled, stapled, punctured, or paper clipped or we will not be able to machine grade them. These instructions are particularly important since the answer sheets are scored by computer.

.03 The district Special Enrollment Examination Coordinator or designate will arrange to have the regional and district office codes entered on each candidate's answer sheet. The regional office (one digit) and district office (two digits) code numbers should be entered at the top of the answer sheet on the lines provided for the regional office and the district office.

.04 After completion of the examination, the district Coordinator will arrange to have each candidate's answer sheet verified to assure that the candidate's name, number and regional and district office code numbers are correct. Any errors are to be corrected by the Coordinator or his/her designee. The answer sheets of each applicant are to be associated together (collate by candidate). All answer sheets are to be shipped to the Director, Examination Division, CP:E:E:C, 1111 Constitution Avenue, NW, Washington, DC 20224, by October 9, 1981.

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Form 2848

Form **2848**
(Rev. July 1976)
Department of the Treasury
Internal Revenue Service

Power of Attorney

(See the separate Instructions for Forms 2848 and 2848-D.)

Name, identifying number, and address including ZIP code of taxpayer(s)

hereby appoints (Name, address including ZIP code, and telephone number of appointee(s)) (See Treasury Department Circular No. 230 as amended (31 C.F.R. Part 10), Regulations Governing the Practice of Attorneys, Certified Public Accountants, and Enrolled Agents before the Internal Revenue Service, for persons recognized to practice before the Internal Revenue Service.)

Name of Student

Name of Faculty Member

as attorney(s)-in-fact to represent the taxpayer(s) before any office of the Internal Revenue Service for the following Internal Revenue tax matters (specify the type(s) of tax and year(s) or period(s) (date of death if estate tax)):

The attorney(s)-in-fact (or either of them) are authorized, subject to revocation, to receive confidential information and to perform on behalf of the taxpayer(s) the following acts for the above tax matters:

(Strike through any of the following which are not granted.)

To receive, but not to endorse and collect, checks in payment of any refund of Internal Revenue taxes, penalties, or interest. (See "Refund checks" on page 2 of the separate instructions.)

To execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund.

To execute consents extending the statutory period for assessment or collection of taxes.

To execute closing agreements under section 7121 of the Internal Revenue Code.

To delegate authority or to substitute another representative.

Other acts (specify) ....

Send copies of notices and other written communications addressed to the taxpayer(s) in proceedings involving the above matters to (Name, address including ZIP code, and telephone number):

and

This power of attorney revokes all earlier powers of attorney and tax information authorizations on file with the same Internal Revenue Service office for the same matters and years or periods covered by this form, except the following:

....
(Specify to whom granted, date, and address including ZIP code, or refer to attached copies of earlier powers and authorizations.)

Signature of or for taxpayer(s)

If signed by a corporate officer, partner, or fiduciary on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.

.... (Signature) .... (Title, if applicable) .... (Date)

.... (Signature) .... (Title, if applicable) .... (Date)

(The applicable portion of the back page must also be completed.) 875-286-1 Form **2848** (Rev. 7-76)

Form 2848

Form 2848 (Rev. 7-76) Page 2

If the power of attorney is granted to an attorney, certified public accountant, or enrolled agent, this declaration must be completed.

I declare that I am not currently under suspension or disbarment from practice before the Internal Revenue Service, that I am aware of Treasury Department Circular No. 230 as amended (31 C.F.R. Part 10), Regulations Governing the Practice of Attorneys, Certified Public Accountants, and Enrolled Agents before the Internal Revenue Service, and that

I am a member in good standing of the bar of the highest court of the jurisdiction indicated below; or
I am duly qualified to practice as a certified public accountant in the jurisdiction indicated below; or
I am enrolled as an agent pursuant to the requirements of Treasury Department Circular No. 230.

Designation (Attorney, C.P.A., or Agent)	Jurisdiction (State, etc.) or Enrollment Card Number	Signature	Date
Student Attorney/ Accountant	Special Orders (Date), Dept of Treasury, General Counsel	X	X
Faculty Member	As Appropriate	X	X

If the power of attorney is granted to a person other than an attorney, certified public accountant, or enrolled agent, it must be witnessed or notarized below. (See Treasury Department Circular No. 230 as amended (31 C.F.R. Part 10), Regulations Governing the Practice of Attorneys, Certified Public Accountants, and Enrolled Agents before the Internal Revenue Service, for persons recognized to practice before the Internal Revenue Service.)

The person(s) signing as or for the taxpayer(s): (Check and complete one.)

☐ is/are known to and signed in the presence of the two disinterested witnesses whose signatures appear here:

(Signature of Witness) (Date)

(Signature of Witness) (Date)

☐ appeared this day before a notary public and acknowledged this power of attorney as a voluntary act and deed.

(Signature of Notary) (Date) NOTARIAL SEAL (If required)

★ U.S. GOVERNMENT PRINTING OFFICE 1979-608-621/1036 575-286-1 return date. A "reasonable time" will vary depending upon the location of the residence of the witness and the place of trial and, in the case of a subpoena duces tecum, the nature of the documents and records called for by the subpoena. A subpoena served after its return date is not an enforceable subpoena. Therefore, the Regional Counsel makes every effort to place the subpoena for service in the District Director's office well in advance of the date the witness is required to appear.

403(18) *(8–17–78)*
Advertising by Preparers of Tax Returns

(1) District and regional offices should be alert to local newspaper advertising, as well as advertisements by other media. Misleading statements in advertisements, or statements that otherwise leave false impressions with taxpayers, are to be handled as seems appropriate by the District Director. Generally, the District Director should not overreact to ads that talk about the complexity of the law or the tax forms. His/her protests here could give the appearance of an attempt to stifle criticism. The criterion for objecting to a statement in an ad should be its likely effect as an inducement to use the service offered rather than its criticism of Internal Revenue Service. The District Director should move promptly and vigorously to counter any statements in ads that for example:

(a) contain false or misleading information as to the nature or extent of the representation which the advertiser is authorized to perform;

(b) suggest a special relationship with the Service;

(c) present misleading figures on the number of self-prepared returns that err in favor of the Government; or

(d) exaggerate normal refund statistics to make it appear that the firm has a special ability to get refunds.

(2) In most instances, the following three-step approach should prove effective in curbing misleading advertising.

(a) If it seems appropriate, the return preparer should be contacted in an effort to have misleading statements deleted or clarified in subsequent ads.

(b) Also, if appropriate, false or misleading advertising should be countered by local news releases giving factual information to clarify, correct, or refute it. Public Affairs Division has developed Taxpayer Information Material (TIM) for use or adaptation in the above circumstances.

(c) If the false or misleading advertising is flagrant and purposefully deceptive with an intent to mislead the public, the matter should be referred to the Director, Examination Division, CP:E:S:C, 1111 Constitution Avenue, NW, Washington, DC 20224, for consideration and possible transmission to the Federal Trade Commission for appropriate action with accompanying publicity. The district's referral report should contain copies, or transcripts, of the ads in question with sufficient background information to fully demonstrate the violation and the extent of the dissemination of the material. Further, the report should indicate any action taken under (a) or (b) above and its effectiveness.

(3) When misleading statements in advertising, or statements that otherwise leave false impressions with taxpayers, are used by a local licensee or franchise holder of a commercial return preparer organization that is area wide or nationwide in scope, and the District Director finds that action taken under (2)(a) or (b) above is ineffective at the local level, the matter should be referred to the Director, Examination Division, CP: E:S:C, 1111 Constitution Avenue, NW, Washington, DC 20224, in the same manner as a violation reported under (2)(c) above. The district's report should also include the name and address of the firms' home office, if known.

(4) The Federal Trade Commission has obtained agreement for consent orders to cease and desist from unfair trade practices from some of the nation's largest returns preparation firms. Exhibit 4030–5 cites actions that the indicated firms have agreed to cease and desist from. We are concerned that violations of these consent agreements do not go undetected and unreported. Therefore, evidence of a violation of any of these agreements, including the specific source of the information indicating the violation, should be promptly sent to the Director, Examination Division, CP: E:S:C, 1111 Constitution Avenue, NW, Washington, DC 20224, for consideration and possible transmission to the Federal Trade Commission. Cases in which it is unclear as to whether information is confidential tax information and thus whether it may be disclosed to the FTC, the National Office, Examination Division, will route the information through the Disclosure Operations Divisions.

403(19) *(6–8–76)*
Recognition of Witnesses During Examination Process

(1) Rev. Proc. 68–29, 1968–2 C.B. 913, provides that a taxpayer has the right to use the services of any person he/she may elect as a witness for the purpose of explaining his/her books, records, or returns to the examiner during the examination process. The fact that the person is nonenrolled and ineligible for limited practice under the provisions of Rev. Proc. 68–20, 1968–1 C.B. 812, does not disqualify him/her from recognition as a witness.

(Next page is 4000–48.1)

(2) Persons appearing as witnesses should be treated courteously, but, of course, should not be permitted to represent the taxpayer as an advocate when controversies arise out of the factual development of the case. To avoid misunderstandings as to the proper role of a witness, the examiner should cite and carefully explain the provisions of Rev. Proc. 68–29 to the taxpayer as well as to the witness.

403(20) *(6-8-76)*
Request to Regional Counsel for Legal Advice

(1) Audit personnel may obtain legal advice from the Regional Counsel concerning cases under examination on matters which are not related to the Internal Revenue Code and Regulations. Examples of matters on which legal advice might be requested include (but are not limited to) the following:

(a) the meaning, force and effect of legal terms in a contract;

(b) the enforceability of a contract;

(c) the application of State laws to the elements of a contract; and

(d) information regarding applicable State statutes which bear upon the corporate existence and the status of a transferee of assets.

(2) Additional examples of Regional Counsel assistance which might be requested on prime issue cases are:

(a) review of the case not only for the favorable points for the Government but also the factual weaknesses or adverse circumstances in the Government's case and the strong points in the taxpayer's case to determine whether the Service position on the issue would be fairly presented to the court at trial;

(b) evaluation of primary or secondary evidence which would be useful in litigating prime issues;

(c) documentation of evidence.

(3) In developing issues, especially those which are included in the Prime Issue Program, proper evaluation of the rules of evidence may significantly improve the Government's litigating prospects. The Regional Counsel is a good source of information regarding such rules.

(4) Audit personnel are encouraged to avail themselves of this service. Timely legal advice will assist in properly developing a case. However, in no case will requests be made to Regional Counsel for technical or procedural advice obtainable under IRM 4550, Technical Advice from the National Office, or IRM 8(13)10, Closing Agreement Handbook, Section 530. Also, this procedure will not be substituted for IRM 4469:(2) regarding the review procedure of statutory notices by Regional Counsel.

(5) The examiner should first seek advice from his/her group manager. The group manager may, after consultation with the District Technical Coordinator or some other designated person at comparable level, communicate in writing or consult orally with the Regional Counsel. The District Technical Coordinator, or other designated person, will be responsible for screening all oral or written requests to ensure that they are properly directed. Such person will be in a position to advise Audit personnel on the most effective manner of using the Regional Counsels' services.

(d) Thereafter, cooperate fully in any ensuing investigation and avoid any unnecessary discussion of the case with anyone.

5154 *(5-27-81)*
Case File History Sheets

(1) To maintain a record of the decisions and actions taken pertinent to individual cases, a history sheet should be used to record such data in chronological order. An entry should be made to reference an action even though a form or document relative to the action is in file. This will provide continuity in the case history file and allow for easier familiarization in the event of transfer to another employee or managerial review. A statement detailing the taxpayer's filing requirements, compliance and proposed corrective actions, if needed, are to be annotated as soon as possible after the initial contact with the taxpayer. Form 2747, Investigation History, will be used for documentation. See Exhibit 5100–28. The history, along with related data accumulated during the processing of the case, is to remain attached to the case when it is closed.

(2) When an employee receives a case, an entry will be made in the history reflecting the date the case was received into inventory and the employee's initials and/or employee identification number. This should be the first entry made, so that responsibility for case actions can be easily ascertained. Other employees handling the case during the course of an investigation must also document the history with their initials or identification numbers, date and nature of actions taken.

(3) When multiple accounts and/or investigations are present, the history material should be maintained on the open case with the latest assessment date (or latest tax period for investigations) and the other cases cross-referenced to it. This will eliminate duplication, yet enable the history material to be located if one or more of the cases are separated or closed. However, when one or more, but not all multiple accounts are being reported as currently not collectible, a copy of the history should be included with the Form 53, Report of Currently Not Collectible Taxes, as provided in IRM 5612.2:(4)(1).

5155 *(2-23-81)*
Representation Requirements

5155.1 *(6-8-79)*
General

(1) Two separate factors should be considered when dealing with third parties regarding a taxpayer's case. One factor is the legal requirement that information of a confidential nature is to be disclosed only to properly authorized persons. The other factor is the legal requirement to allow only properly authorized persons to practice before the Service.

(2) Disclosure of information of a confidential nature to third parties representing or otherwise acting on behalf of the taxpayer (except for certain government bodies) may be made only pursuant to *written* authorization from the taxpayer. This authorization may be given on the following.

(a) Form 2848, Power of Attorney.

(b) Part I of Form 2848–D, Tax Information Authorization,

(c) Any other appropriate power of attorney or other taxpayer authority

(3) To represent a taxpayer before the Service, an attorney or certified public accountant (CPA) must present, or have on file, a written declaration that he/she is currently qualified as an attorney or CPA and is authorized to represent the taxpayer. This declaration may be made on Part II of Form 2848–D, which is on the reverse of Form 2848–D, or on any other similar document. Enrollment cards previously issued to attorneys and CPA's are no longer valid in lieu of written declaration, unless their representation on a specific tax matter originated prior to September 13, 1966.

(4) A declaration once filed and associated with appropriate tax return(s) or other matter(s) will be presumed to remain valid unless the Service has evidence to the contrary. A declaration will ordinarily be requested regarding a particular matter only upon the first appearance of the representative before the Service. The Service will reproduce extra copies as needed for association with returns or other matters.

(5) Enrolled agents may represent taxpayers by showing evidence of their enrollment (ordinarily an enrollment card) or by submitting a declaration of their representation (see (3) above). Unenrolled persons (other than attorneys and CPA's) may qualify for practice before the Service if they present evidence of their qualifications to so practice.

(6) More detailed information on practice requirements is available in Treasury Department Circular 230 and 26 CFR 601, Subpart E, and in the Service document entitled Instructions for Forms 2848 and 2848–D.

(7) Collection activity personnel should be particularly aware of the provisions of Circular 230 as they relate to the representation of taxpayers before the Service by Federal or State officials or employees.

(a) Sections 10.3(e) and (f) of Circular 230 provide:

1 "(e) Government officers and employees; others. No officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of

the United States, including the District of Columbia, may practice before the Service, except that such officer or employee may, subject to the conditions and requirements of these regulations and of 18 U.S.C. 205, represent a member of his/her immediate family or any other person or estate for which he/she serves as guardian, executor, administrator, trustee, or other personal fiduciary. No Member of Congress or Resident Commissioner (elect or serving) may practice before the Service in connection with any matter for which he/she directly or indirectly received, agrees to receive, or seeks any compensation. 18 U.S.C. 203, 205. Nothing herein shall be construed as prohibiting an officer or employee of the United States as aforesaid, who is otherwise eligible to practice under the provisions of this part, from representing others before the Internal Revenue Service when doing do in the proper discharge of his/her official duties."

2 "(f) State officers and employees. No officer or employee of any State or subdivision thereof, whose duties require him/her to pass upon, investigate, or deal with tax matters of such State or subdivision, may practice before the Service, if such State employment may disclose facts or information applicable to Federal tax matters."

(b) Federal or State officials or employees may discuss a case or appear with a taxpayer in the capacity of a witness without violating these restrictions. See Rev. Proc. 68-29, 1968-2, C.B. 913.

(c) However, if a Federal or State official or employee appears to be representing a taxpayer under circumstances indicating a possible violation of the Circular's provisions, Service employees should advise such individual concerning the existence and content of Circular 230.

(8) To the extent possible, whenever contacting a taxpayer's representative, the revenue officer or revenue representative should telephone for an appointment with the representative before visiting his/her office. This procedure may be waived when it is not advantageous or distraint action is imminent.

5155.2 *(5-12-81)*
Processing Power of Attorney Authorizations

(1) When a Power of Attorney (POA) or other authorization to represent a taxpayer is received in the service center, appropriate actions are taken to input a POA code to the entity on the respective master file. The authorization document is then filed in the POA section in the service center. Subsequent computer issuances to entities with POA codes are automatically routed to the POA section.

(2) Copies of computer issuances with POA codes received in the POA section are screened against the authorization documents on file and mailed when appropriate to the representative designated in the authorization.

(3) When a POA is submitted to a Collection employee, either the original or a copy of the POA should ordinarily be promptly forwarded to the service center. It should be sent to the unit handling POAs in the Taxpayer Relations Branch in the service center. The original or a copy of the POA should also be retained with the Collection case file.

(4) the only exceptions in which POAs should not be sent to the service center are those clearly intended for one-time use, such as authorizations submitted with Freedom of Information requests or Congressional inquiries. A POA that covers a specific tax period for a specific tax return would be forwarded to the service center unless it falls into the one-time category.

(5) Forwarding the authorization to the service center will trigger required actions to ensure input of a POA code to the entity on the appropriate master file or non-master file and will result in subsequent mailings of copies of computer communications to the authorized representative.

(6) When a POA or other authorization is received by Collection, it should clearly be identified by the Collection employee at the bottom of the form with the name or code of the district office where the authorization was received and the Collection function. If problems arise with POAs not being properly handled in particular districts, this information will enable the service centers to identify the specific areas where the problems exist.

Request #8

8. Provide the Subcommittee with an explanation of the IRS policy and procedures regarding the notification process involved in levy and seizure collection actions.

The Service sends a delinquent taxpayer a series of 3 to 4 computer notices over a period of several months requesting payment of the outstanding liability. The second notice includes Publication 586A, The Collection Process (Income Tax Accounts) or Publication 594, The Collection Process (Employment Tax Accounts). See Attachments 1 and 2. These publications outline the taxpayer's and Service's obligations and responsibilities and advises the taxpayer to contact the Service if payment cannot be made. It also advises that levy or seizure action may be taken if the taxpayer ignores our requests for payment. See Attachment 3, Internal Revenue Code Section 6331, which gives the IRS the authority to levy and seize.

If the taxpayer does not pay in response to these notices, a delinquent account is sent to the Collection Office function in a district office for processing. If the taxpayer advises us that the liability cannot be paid, we take a Collection Information Statement which outlines the taxpayer's assets and liabilities to determine the taxpayer's ability to pay. Then we analyze the statement and may take one of the following actions:

- request immediate payment if the analysis indicates that the taxpayer can pay the outstanding balance;
- enter into an installment agreement allowing the taxpayer to pay the liability in installments.
- suspend collection action until the taxpayer's financial condition improves.

Although there is no provision in the law for installment agreements, it is the Service's policy to grant an installment agreement when we determine that one is necessary. See Attachment 4, Policy Statement P-5-14.

Should the taxpayer refuse to pay or not respond to our notices, and a levy source is available, (e.g., taxpayer's bank, employer), a Notice of Levy is issued. Prior to issuing the Notice of Levy, we research our computer(IDRS) to ensure that the taxpayer has been given credit for all payments to avoid improper levy action. Generally, we will take Notice of Levy action before other types of enforcement action as it has a lesser impact on the taxpayer and is less costly for the Service. See Attachment 5, Collection Office function procedures, Internal Revenue Manual Sections 5244.33, 5244.34, 5320.

If the account cannot be resolved in the Collection Office function, it is sent to our Collection Field function for resolution by a revenue officer. Revenue officers attempt to contact the taxpayer to resolve the matter before taking any enforcement action.

Needless to say, there are some taxpayers who ignore our requests for payment. In such cases, we often are left with no alternative but to seize assets of the taxpayer. Except in jeopardy situations, before seizure action can be taken, we require Collection personnel to contact and inform the taxpayer of the contemplated action and provide a reasonable opportunity for voluntary payment. We also require managerial concurrence by a group manager prior to seizure action. Two management levels of review are required prior to seizure of a personal residence.

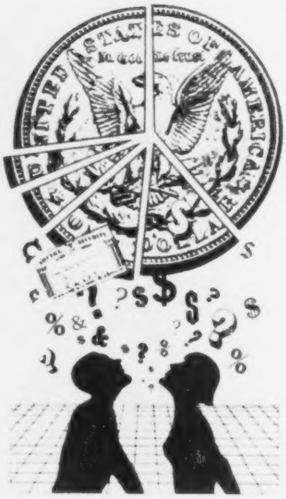
As a result of the G.M. Leasing decision by the U.S. Supreme Court, we are required to secure the taxpayer's consent, or in cases where consent cannot be secured, obtain a "writ of entry" from a U.S. District Court prior to seizing assets located in a private portion of a business premise. Generally, the private portion includes areas not normally accessible to the public during the ordinary course of business, e.g., a cash register or storeroom. IRS employees may not enter a private residence without permission from the taxpayer. (However, a U.S. Marshall may enter a residence forcibly with a writ. On very rare occasions, the Service may request the assistance of a marshall when conducting the seizure of a residence.) See Attachment 6, IRM 5341, 5342, and Policy Statements P-5-34 and P-5-38.

Publication 586A
(Revised April 1982)

The Collection Process (Income Tax Accounts)

Existe una versión de esta publicación en español, la Publicación 586S, que puede obtener en la oficina local del Servicio de Impuestos Internos.

Department of the Treasury
Internal Revenue Service



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I. Introduction

This booklet is designed to explain your rights and duties as a taxpayer owing a bill for taxes. It also explains the legal obligation of the Internal Revenue Service to collect overdue taxes, and how we fulfill this obligation. It is not intended to be a precise and technical analysis of the law in this area.

By law, the Internal Revenue Service is also empowered to collect certified child support obligations. The collection and payment of these liabilities, with certain exceptions, is the same as for unpaid taxes.

Attachment 1

II. Liability for Unpaid Taxes

A. Notice and Demand

Each return filed with the Internal Revenue Service is checked for mathematical accuracy and to see whether appropriate payment has been made. If tax is owing, a notice of tax due will be sent to you.

We are required to issue you this bill, which is demand for payment. You are then required by law to make payment within 10 days of the date of this bill. If the tax remains unpaid after the 10 day period has passed, a statutory lien attaches to your property.

B. Accelerated Notice and Demand

While we follow the routine billing procedure in the great majority of cases involving unpaid taxes, situations arise when the normal 10 day notice and demand period must be shortened. We make accelerated billings if we have reason to believe that delay will jeopardize collection. These bills become immediately due and payable after delivery of the notice and demand to you, and collection action may begin if payment is not made at once.

III. Payment Procedure

By law you are required to pay a bill within 10 days after receiving the notice and demand. Most taxpayers respond to the first notice and pay the full amount owed.

If your tax is not paid on time, the law provides for interest and penalty for late payment.

Interest—Effective February 1, 1982, through December 31, 1982, the rate is 20 percent a year on the unpaid tax. By law, the interest rate is subject to periodic adjustment and shall become effective January 1 of each year after 1982.

Penalty for Late Payment—is ½ of 1 percent of the unpaid tax for each month, or part of a month the tax remains unpaid. The penalty cannot exceed 25 percent of the unpaid amount.

Penalty for Failure to File—If you fail to file your return by the prescribed due date, you will be penalized 5 percent per month, or any fraction of a month that the return is late, up to a maximum of 25 percent. (However, when the liability for both the failure to file and failure to pay penalty exists in the same month, the failure to file penalty will be reduced by ½ percent per month, so that the total combined penalty does not exceed 5 percent for any given month.)

We may eliminate the penalties for late payment and filing if you show reasonable cause for not making the payment or filing timely (see Section VI G).

You should pay your account promptly to keep interest and penalty charges to a minimum. Whenever you make tax payments, be sure to enclose a copy of your bill, and enter your social security number and tax period on your check, money order or postal note, to ensure that your payment is correctly credited to your account.

A. If You Believe Your Bill Is Wrong

If you believe that your bill contains an error, you should reply in writing to the office from which the bill was sent. It is important that you provide any records (always retain a copy for your files) you believe would help in correcting the mistake, such as cancelled checks (photocopies of both sides of the checks), or tax returns. If you are correct, the necessary adjustment will be made to your account. We will ask you to pay any tax, interest and penalty still due after the correction is made.

B. If You Believe You Can't Pay

If you believe that you cannot immediately pay your bill in full, write us immediately, explaining your circumstances.

We may ask you to complete a Collection Information Statement. If you need help, we will assist you in completing this statement. Once you have completed the statement, we will carefully review your financial condition to determine how you can pay the amount due.

1. Immediate Full Payment

We may be able to identify assets which could readily be sold, mortgaged or used to secure funds to pay the tax; or discuss your ability to secure a commercial loan for such purposes. If we determine that you have the ability to pay your tax in full, we will request that you do so promptly. If you neglect or refuse to pay in full, we may take enforced collection action.

2. Installment Payments

If we determine that you cannot make immediate full payment but that you are able to pay the tax liability through installments, we will help you prepare a form itemizing your monthly income and expenses to establish your maximum ability to pay. In certain cases we can arrange, through a payroll agreement, for your employer to withhold and regularly pay to us amounts deducted from your pay. In other cases we may afford you the opportunity to give us post-dated checks to be deposited as your installment payments become due. You may, depending on the amount owed and other criteria, be given an installment agreement without submitting detailed financial information.

We will not enter into an installment agreements unless you agree to remain current in paying your future taxes. Once an installment agreement is made, you must make each payment on time. If you miss an installment without contacting us and discussing the circumstances causing the failure to pay, we may take prompt enforced collection action. Also, during the time you are making payments, we may require you to appear for a review of your financial condition to enable us to determine if you are able to increase the amount of your installment payments.

3. Delayed Collection

If your financial condition indicates that you cannot make any payment towards your liability at this time, we may decide to delay collection temporarily. This does not mean your debt is forgiven, or that the penalty for late payment and interest stop accruing. Collection action is merely suspended until your financial condition has improved to the point where you can pay.

C. Refund Offset

If you become entitled to a refund during the time you owe a tax liability, we will offset the refund due you against your unpaid liability. Only the excess refund, if any, will be paid to you. However, we will generally not withhold collection pending refunds you feel you may be entitled to in the future on returns not yet filed.

D. Bankruptcy Proceedings

If you are a debtor in an ongoing bankruptcy, do not pay the bill without immediately contacting your local IRS office. While the bankruptcy proceeding will not necessarily relieve your obligation to pay, a temporary stay of collection may be in effect.

E. Summary

The most important step for you in the collection process is to immediately respond to the notices you receive from the Internal Revenue Service.

IV. Enforced Collection Policy

If you do not follow the recommendations just discussed, the law provides that we may take enforced collection action against your property or rights to property. The following is an explanation of our enforcement activity and your rights in relation to it.

A. Federal Tax Lien

Once notice and demand for payment (that is a bill for the tax due) is sent and you neglect or refuse to pay the tax, a statutory lien attaches to your property and rights to property. This lien is not valid against claims which certain of your creditors may have until a Notice of Federal Tax Lien has been filed. The filing of the Notice of Federal Tax Lien constitutes public notice to your creditors that a tax lien exists against your property, including property acquired after the Notice of Federal Tax Lien is filed.

Under normal circumstances, we don't need to file a Notice of Federal Tax Lien, because most taxpayers pay the tax due after receiving a bill. But if you neglect to pay the tax due, we must determine whether filing the Notice of Federal Tax Lien is necessary in order to protect the interest of the Government in your property. Once a Notice of Federal Tax Lien is filed, it becomes a matter of public record and may adversely affect your business transactions or other financial interests. (For example, it could impair your credit rating.) Therefore, it is normally filed only after we have tried to contact you and afford you the opportunity to pay.

In situations where the account is being paid through an installment agreement, a Notice of Federal Tax Lien may also be filed to secure the government's interest until the final payment is made. In addition, a Notice of Federal Tax Lien may be filed when collection action is delayed temporarily.

Generally, the Notice of Federal Tax Lien is filed with an office designated by State law.

A Federal Tax Lien will be released when the tax due (including interest and other additions to the tax) has been fully satisfied by payment or adjustment. All fees charged by the state or other jurisdiction for both filing and releasing a Notice of Federal Tax Lien will be added to the balance you owe.

B. Levy

The Internal Revenue Code provides that if you are liable to pay tax and you neglect or refuse to pay the tax within 10 days after the date of notice and demand, the tax may be collected by levy on any property, or rights to property, belonging to you.

A levy is the taking of property to satisfy a tax liability. Levy can be made on property either in the hands of third parties (employers, banks, etc.), or in your possession (automobile, boat, etc.). We will provide you with an opportunity to voluntarily satisfy your tax liability. If you do not resolve the matter voluntarily, we may then levy to collect the delinquent taxes. If collection of the tax is in jeopardy, we will take immediate levy action.

A levy on salary or wages, once served, continues in effect until your tax liability is satisfied or becomes unenforceable due to lapse of time. The Service will notify your employer or other person against whom the levy was served when the tax is fully paid. The law provides a minimum exemption from levy on wages, salary and other income as explained in 1(j) below.

Generally court authorization is not required before levy action is taken unless collection personnel must enter into private premises to accomplish their levy action. (See Section VI. J. below). The only legal requirements are that the tax is owed and that a notice and demand for payment has been sent to your last known address; if payment is not made within the 10 day period stated on the notice and demand, it is lawful to levy immediately. As noted earlier, in situations where collection is in jeopardy, the 10-day waiting period does not apply.

If, at any point, during the levy process you establish reasonable doubt as to the correctness of the tax bill, the levy may be released. Further, the levy will be released in full or in part if you pay your tax bill or agree to an acceptable installment agreement.

1. Property Exempt from Levy

Certain types of property are exempt from levy by Federal Law. They are:

(a) Wearing apparel and school books. (However, expensive items of wearing apparel, such as furs, are luxuries and are not exempt from levy.)

(b) Fuel, provisions, furniture and personal effects, not to exceed $500 in value (for the head of household).

(c) Books and tools used in your trade, business or profession, not to exceed $250 in value.

(d) Unemployment benefits.

(e) Undelivered mail.

(f) Certain annuity and pension payments.

(g) Workmen's Compensation.

(h) Salary, wages or other income subject to a prior judgment for court-ordered child support payments.

(i) Deposits to the special Treasury fund made by members of the armed forces and Public Health Service employees on permanent duty assigned outside the United States or its possessions.

(j) A minimum exemption for wages, salary and other income of $50 per week, plus an additional $15 for each legal dependent.

The Internal Revenue Service employee levying on property of the type described above will appraise and set aside to you, when applicable, the amount of such property declared to be exempt. If you object at the time of the levy to the valuation fixed by the employee making the levy, you can request a valuation by three disinterested individuals.

2. Property Generally Not Levied On

As a matter of policy, some types of property are generally not levied on, or are levied on only in flagrant and aggravated cases of refusal to pay. These include, for example, the following:

(a) Social Security benefits.

(b) Medicare payments.

(c) Welfare payments.

(d) Payments under the Manpower Development and Training Act of 1962 or the Area Redevelopment Act.

(e) Cash loan value of insurance policies.

(f) Death benefits.

(g) Pension plan proceeds.

(h) Contributions to individual retirement accounts (IRA) and KEOGH Accounts.

(i) Household property, for a head of household, up to $1,500 and business property up to $1,000, if it is concluded that levy action on property below these amounts would cause severe hardship.

C. Seizures and Sales

1. Seizures

Any type of real or personal property (including residential and business property) may be seized and sold to satisfy your tax bill. However, before seizing property, IRS considers other means of collection and factors such as your equity in the property and the sale value of the property. Management concurrence is required before a seizure can be made.

2. Sales

After we seize property for nonpayment of taxes, we then take action to sell it. Except in the case of perishable property which must be sold immediately, we do not sell until at least 10 days after notice to you and to the public about the proposed sale. Prior to sale, we compute a minimum price that we will accept for the property and advise you of the amount. If you are in disagreement, you may request a Service valuation engineer or a private appraiser to assist the Internal Revenue Service employee in re-evaluating the computation figures.

3. Proceeds of Sale

Sale proceeds are applied first to the expenses of the levy and sale; the remaining amount is then applied against the tax bill. If the sale proceeds are less than the tax bill and expenses of levy and sale, the unpaid portion will, of course, be subject to further collection action. When sale proceeds exceed the tax bill and expenses of levy and sale, the surplus money is held by IRS pending a request for distribution. Unless a person, such as a mortgagee or other lienholder, submits a claim superior to yours, these excess funds will be credited or refunded to you upon request.

4. Release/Redemption of Property

We may release the property to you if you pay an amount equal to the amount of the Government's interest in the property, you enter into an escrow arrangement, you furnish an acceptable bond or you make an acceptable agreement for payment of the tax.

You have the right to redeem your property at any time prior to the sale. Redemption consists of paying the tax due, including interest and penalties, together with the expenses of the seizure. Real estate may be redeemed at any time within 120 days after the sale by paying the purchaser the amount he/she paid for the property plus interest of 20 percent per annum.

V. Claim Procedure

A. How to Claim a Refund or Credit

Once you have paid your tax bill in full, you have the right to file a claim for refund or credit if you feel the tax is erroneous or excessive. You can obtain the necessary forms and information about filing your claim by calling or visiting any Internal Revenue Service office. You should file your claim by mailing it to the Internal Revenue Service Center where the original return was filed. A separate form must be filed for each tax year involved. You should attach to such form a statement supporting your claim, including an explanation of each item of income, deduction or credit on which you are basing your claim.

B. Time for Filing a Claim for Refund or Credit: General Rule

You must file a claim for refund or credit within three years from the date the return was filed (returns filed before the due date are considered to have been filed on the due date) or within two years from the date the tax was paid, whichever date is later.

C. Limit on Amount of Refund or Credit

Limits on amounts of refund or credits are governed by the time period between the date you filed your tax return and the date you filed your claim. For claims filed within three years of the date of a timely filed tax return, the credit or refund may not exceed the amount of tax paid within that three year period. This would include amounts paid prior to the due date of the tax return (such as tax withheld from your wages and estimated tax payments) since these amounts are considered paid on the due date. If you do not file your claim within three years of the date of a timely filed tax return, the credit or refund may not exceed the amount of the tax paid within the two years immediately preceding the filing of your claim.

D. Processing Claims for Refund or Credit

Your claim for refund or credit may be accepted as filed, or may be subject to examination. If your claim is examined, the procedures are the same as in the examination of a tax return. (Publication 556, "Examination of Returns, Appeal Rights and Claims for Refund" is available at your local IRS office to explain our procedures for examining returns and claims.)

E. Rejected Claims—Filing Suit in District Court and Court of Claims

If we reject your claim, you will receive a statutory notice of disallowance of your claim. After receiving a notice of disallowance, you may file a suit for refund in a U.S. District Court or in the U.S. Court of Claims. You must file suit within 2 years from the date the notice of disallowance is mailed to you. Also, if we have not acted on your claim within six months from the date you filed it, you can then file suit for refund. If you seek prompt court action, without availing yourself of an IRS determination, a request in writing, that the claim be immediately rejected, must accompany your claim for refund. You can obtain information about procedures for filing suit in the District Court by contacting the Clerk of your District Court. You can obtain information about procedures for filing suit in the Court of Claims from the Clerk of the Court of Claims, 717 Madison Place, N.W., Washington, D.C. 20005.

VI. Rights

The following section contains an explanation of taxpayer rights. Read this section carefully to be sure that you are aware of the rights which may pertain to your tax account.

A. Representation

You may represent yourself or you may be represented by an attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service. If your representative attends a conference without you or telephones on your behalf, your representative must file a power of attorney or a tax information authorization before receiving or inspecting confidential information.

Form 2848, "Power of Attorney", or 2848D, "Authorization and Declaration", (or any other properly written power of attorney or authorization) may be used for this purpose. Copies of these forms may be obtained from any Internal Revenue Service office.

B. Transfer of Your Tax Case to Another Geographical Area

In any case where your tax problem can be handled more quickly and conveniently in another district, you may request that the case be transferred to that district. If you give a valid reason when making your request, the case will be transferred. For example, this would be done when your place of residence changes either before or during the discussion of your tax case.

C. Interest on Refunds

You will receive interest on any refund delayed more than 45 days after either the filing of your return or the due date of the return, whichever is later. (By law, the interest rate is subject to periodic adjustments.)

D. Receipts

You have the right to a receipt for any payment you make, including a receipt for all cash payments. You also have the right to receive copies of all contractual arrangements (such as an installment agreement) made with us.

E. Privacy Act Notice

The Privacy Act of 1974 says that each Federal agency that asks you for information must tell you the following:

(a) Its legal right to ask for the information and whether the law says you must give it.

(b) What major purposes the agency has in asking for it, and how it will be used.

(c) What could happen if the agency does not receive it.

For the Internal Revenue Service, the law covers:

Tax returns and any papers filed with them.

Any questions we need to ask you so we can—

Complete, correct, or process your return.

Figure your tax.

Collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001 and 6011 and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Code section 6109 and its regulations say that you must show your social security number on what you file. This is so we know who you are, and can process your return and papers.

You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to States, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to foreign governments because of tax treaties they have with the U.S.

If a return is not filed, or if we don't receive the information we ask for, the law provides that a penalty may be charged. And we may have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

This is the only notice we must give you to explain the Privacy Act. However, we may give you other notices if we have to examine your return or collect any tax, interest, or penalties.

Please keep this notice with your records. It may help you if we ask you for other information.

F. Confidentiality of Tax Matters

You have the right to have your tax case kept confidential. The IRS has a duty under law to protect the confidentiality of your tax return information. However, if a levy is served or if a Notice of Lien or lawsuit is filed, certain aspects of your tax case, such as the amount of tax due and type of tax owed, may become a matter of public record.

G. Elimination of Penalty—Reasonable Cause

The Internal Revenue Code provides for elimination of penalties when you show reasonable cause rather than willful neglect for either late filing of a return or late payment of a tax.

Reasonable cause, broadly defined, is a cause which arises despite ordinary care and prudence exercised by you. If you believe you have reasonable cause for elimination of a penalty, discuss your reason with our representative. If he or she agrees, your penalty will be eliminated upon your supplying us a written statement setting forth the facts establishing reasonable cause. (Under the law, interest cannot be eliminated due to reasonable cause.) If our representative does not believe you have established reasonable cause, you may appeal this determination to the Regional Director of Appeals. You may make known your desire to appeal, either in writing or orally to our representative. You will then be contacted and a conference will be arranged at a time and place that is mutually convenient.

H. Offers in Compromise

By law you have the right to submit an offer in compromise on your tax bill. The Commissioner of the Internal Revenue Service has the authority to compromise all taxes (including any interest, penalty, additional amount or addition to tax) arising under the Internal Revenue laws, except those relating to alcohol, tobacco, and firearms.

A compromise may be made on one or both of two grounds—(1) doubt as to the validity of the amount owed or (2) doubt as to your ability to make full payment of the amount owed. The doubt as to the validity of the amount owed must be supported by evidence and the amount acceptable will depend upon the degree of doubt found in the particular case. In the case of inability to pay, the amount offered must exceed the total value of your equity in all your assets. The amount must also give sufficient consideration to your present and future earning capacity which may require a written agreement to pay a percentage of future earnings as part of the offer. A written agreement may also be required to relinquish certain present or potential tax benefits. (Individual hardship of a temporary nature alone is not a basis for our accepting an offer.)

Submission of an offer in compromise does not automatically suspend collection of an account. If there is any indication that the filing of the offer is solely for the purpose of delaying collection of the tax or that delay would negatively affect collection of the tax, we will continue collection efforts.

All forms necessary for filing an offer in compromise plus additional information regarding the procedure, can be obtained at local Internal Revenue Service offices.

I. Managerial Review of Employee Decisions

If at any step in the Collection process you do not agree with the recommendations of our employee, you have the right to discuss the matter with his/her manager. Our employees will tell you the name and location of their manager.

J. Entry upon Private Property

You have the right to refuse to permit Collection personnel to enter upon your private property when the purpose of the visit is to conduct a seizure of your assets. If you decide to avail yourself of this right, the IRS may then decide to seek court authorization to enter upon the property to carry out the seizure action.

K. Problem Resolution Program (PRP)

The PRP is designed for taxpayers who have been unable to achieve a resolution to their tax problems through the other avenues of review explained in this booklet. To use the service you should contact the Problem Resolution Officer, who is available in each of our District offices. You may contact the Problem Resolution Officer on our toll free telephone system or visit him/her in the District office.

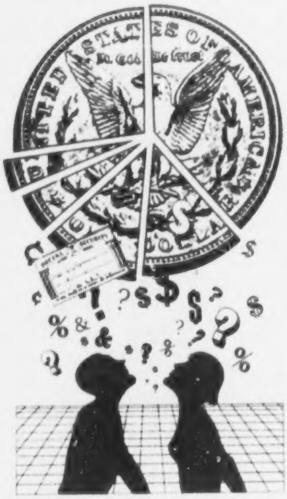
For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402 — Stock Number 048-004-01713-0

Attachment 2

Publication 594
(Rev. April 1982)

The Collection Process (Employment Tax Accounts)

Department
of the
Treasury
**Internal
Revenue
Service**



I. Introduction

The Service has been given broad powers under the Internal Revenue Code to collect taxes. This booklet is designed to explain your rights and duties as a taxpayer owing a bill for Employee's Quarterly Federal Taxes and how we fulfill the legal obligation of the Service to collect the taxes. It is not intended to be a precise and technical analysis of the law.

Throughout this booklet, these taxes will be referred to as employment taxes.

Employment taxes generally represent amounts of money withheld from the wages of an employee by the employer plus the employer's share of social security taxes (FICA). The money withheld from the employee's wage consists of income tax and social security taxes. Since the employer is entrusted with the responsibility of withholding the taxes and paying them to the Internal Revenue Service, the withheld portion of employment taxes is referred to as "trust fund taxes."

In collecting these taxes, we distinguish between those taxpayers who reflect a sincere effort to meet their tax obligations and those taxpayers who show little or no evidence of cooperation. The distinction is made because we believe that taxpayers who are making a true effort to comply should be afforded an opportunity to resolve their delinquency, over a short period of time, if they incur no further liabilities. On the other hand, however, we believe that "repeater" or "chronic delinquent" trust fund cases require swift and decisive Service response for the following reasons:

(1) the taxpayer is using the "trust fund" monies as operating capital and thereby gains an unfair advantage over other businesses;

(2) the taxpayer has been repeatedly warned and yet continues to divert the "trust fund" monies; and

(3) the amount owed can escalate dramatically if the taxpayer ignores the federal tax deposit and/or filing requirements.

II. Liability for Unpaid Taxes

A. Notice and Demand

Each employment tax return filed with the Internal Revenue Service is checked for mathematical accuracy and to see whether appropriate payment has been made. If employment tax is owing, we will send a notice of tax due.

We are required to issue you this bill, which is a demand for payment. You are then required by law to make payment within 10 days of the date of this bill. If the tax remains unpaid after the 10-day period has passed, a statutory lien attaches to your property and rights to property.

B. Accelerated Notice and Demand

While we follow the routine billing procedure in the great majority of cases involving unpaid taxes, situations arise where the normal 10-day notice and demand period must be shortened. We make accelerated billings if we have reason to believe that delay will jeopardize collection. These bills become immediately due and payable after delivery of the notice and demand to you, and collection action may begin if payment is not made at once.

III. Payment Procedures

Generally, you should pre-pay your taxes by using Federal Tax Deposits (see Section VII). However, if you fail to pre-pay your tax and/or the return is filed without payment, the law provides for charging interest and penalties.

Interest—Effective February 1, 1982 through December 31, 1982, the rate is 20 percent a year on the unpaid tax. By law, the interest rate is subject to periodic adjustment and shall become effective on January 1 of each year after 1982.

Penalty for Late Payment—is ½ of 1 percent of the unpaid tax for each month, or part of a month the tax remains unpaid. The penalty cannot exceed 25 percent of the unpaid amount.

Penalty for Failure to File—if you fail to file your return by the prescribed due date, you will be penalized 5 percent per month or any fraction of a month that the return is late, up to a maximum of 25%. (However, when the liability for both the failure to file and failure to pay penalty exists in the same month, the failure to file penalty will be reduced by a ½ percent per month, so that the total combined penalty does not exceed 5% for any given month.)

Penalty for Failure to Make Federal Tax Deposits—if you fail to deposit employment taxes by the prescribed date, you will be penalized 5 percent of the underpayment (see Section VII).

The penalties for late payment, late filing and failure to make Federal Tax Deposits may be eliminated if you show reasonable cause for not making the payment or filing timely (see Section VI E).

Additionally, if you continue to be delinquent on future employment taxes, we may require you to file and fully pay your taxes on a monthly rather than quarterly basis.

Lastly, you should be aware of the fact that the law provides for criminal sanctions against employers who fail to pay over taxes required to be withheld from the salaries of their employees (this is the "trust fund" portion of the tax as explained in Section I). The law provides that any employer who fails to pay over withheld taxes may be required to open a special bank account and deposit the amounts required to be withheld within two banking days following payment of wages. Any employer who fails to open such an account and/or make timely deposits, after being required to do so, may be found guilty of a misdemeanor, and upon conviction, be fined not more than $5,000, or imprisoned not more than one year, or both, on each count. If found guilty, the employer will also be liable for the costs of prosecution.

Therefore, accounts should be paid promptly to keep interest and penalty charges to a minimum and to avoid possible criminal prosecution for noncompliance. Whenever you make tax payments, be sure to enter your employer identification number on your check, money order or postal note, to ensure that your payment is correctly credited to your account.

A. If You Believe Your Bill Is Wrong

If you believe that your bill contains an error, you should reply in writing to the office from which the bill was sent. It is important that you provide any records you believe would help in correcting the mistake (such as payroll records, cancelled checks or photocopies of both sides of the checks, or tax returns). If you are correct, the necessary adjustment will be made to your account. We will ask you to pay any tax, interest and penalty still due after the correction is made.

B. If You Believe You Can't Pay

If you believe that you cannot immediately pay your bill in full, write us immediately, explaining your circumstances.

We will ask you to complete a Collection Information Statement. If you need help, we will assist you in completing this statement. Once you supply this information, we will carefully review your financial condition.

If we determine that you have the ability to pay all delinquent and current taxes in full, we will ask you to do so. If you neglect or refuse to pay in full, enforced collection action may be taken (see Section IV).

If we determine that you are unable to pay both your current and delinquent taxes, but will be able to if given a reasonable amount of time, consideration will be given to granting an installment agreement for your delinquent taxes. During the period of such agreement, interest and penalty charges will accrue. We also require that you pay all current taxes when due.

Some employers with tax problems are in serious financial trouble. If our financial analysis shows that you must use tax money to remain in business, no permanent cure for the delinquency could be gained through granting installment payments. Under these conditions, we must protect the interest of the Government. Enforcement measures deemed appropriate will be taken in these cases (see Section IV).

Collection action will be promptly taken if the terms of an installment agreement are not met, unless you advise us of the unusual circumstances which caused the failure to pay. If your business is funded, in whole or in part, by the Small Business Administration (SBA) or a Small Business Investment Company (SBIC), you should also notify that organization of the failure to pay.

C. Refund Offset

If you become entitled to a refund on another tax return during the time you owe employment taxes, we will offset the refund otherwise due against your unpaid liability. Only the excess refund, if any, will be paid to you. However, we will not withhold collection pending refunds you feel you may be entitled to in the future on returns not yet filed.

D. Bankruptcy Proceedings

If you are a debtor in an ongoing bankruptcy, do not pay this bill without first immediately contacting your local IRS office. While the bankruptcy proceeding will not necessarily relieve you of your obligation to pay, a temporary stay of collection may be in effect.

E. Summary

The most important step for you in the collection process is to immediately respond to the notices you receive from the Internal Revenue Service.

IV. Enforced Collection Policy

If you do not follow the recommendations just discussed, the law provides that we may take enforced collection action against your property or rights to property. The following is an explanation of our enforcement activity and your rights in relation to it.

A. Federal Tax Lien

Once we send the bill for payment and you neglect or refuse to pay the tax, a statutory lien attaches to your property and rights to property. This lien is not valid against claims which certain of your creditors may have until a Notice of Federal Tax Lien has been filed. The filing of the Notice of Federal Tax Lien constitutes public notice to your creditors that a tax lien exists against your property, including property acquired after the Notice of Federal Tax Lien is filed.

Under normal circumstances we don't need to file a Notice of Federal Tax Lien because taxpayers pay the tax bill after receiving our bill for the tax due. But if you neglect to pay the tax due, we must determine whether filing the Notice of Federal Tax Lien is necessary in order to protect the interest of the Government in your property. Once a Notice of Federal Tax Lien is filed, it becomes a matter of public record and may adversely affect your business transactions or other financial interests. (For example, it could impair your credit rating.) Therefore, it is normally filed only after we have tried to contact you personally and afford you the opportunity to pay.

In situations where the account is being paid through an installment agreement, a Notice of Federal Tax Lien may also be filed to protect the Government's interest until the final payment is made.

Generally, the Notice of Federal Tax Lien is filed with an office designated by state law.

A Federal Tax Lien will be released when the tax due (including interest and other additions to the tax) has been satisfied by payment or adjustment. All fees charged by the state or other jurisdiction for both filing and releasing a Notice of Federal Tax Lien will be added to the balance you owe.

B. Levy

The Internal Revenue Code provides that if you are liable to pay tax and you neglect or refuse to pay the tax within 10 days after the date of notice and demand, the tax may be collected by levy on any property, or rights to property belonging to you.

A levy is a taking of property to satisfy a tax liability. Levy can be made on either property in the hands of third parties, (accounts receivable, bank accounts, notes collectible, etc.), or in your possession (automobile, office equipment, etc.). We will provide you with an opportunity to voluntarily satisfy your tax liability. If you do not resolve the matter voluntarily, we may then levy to collect the delinquent taxes. If collection of the tax is in jeopardy, we will take immediate levy action.

A levy on salary or wages once served, continues in effect until your tax liability is satisfied or it becomes unenforceable due to lapse of time. The Service will notify the employer or other persons against whom the levy was served when the tax is fully paid. The law provides a minimum exemption from levy on wages, salary and other income as explained in 1(j) below.

Generally, court authorization is not required before levy action is taken unless Collection personnel must enter into private premises to accomplish their levy action. (See Section VI. H below.) The only legal requirements are that the tax is owed and that a notice and demand for payment has been sent to your last known address; if payment is not made within the 10-day period stated on the notice and demand, it is lawful to levy immediately. The 10-day waiting period does not apply if collection is in jeopardy.

If, at any point during the levy process, you establish reasonable doubt as to the correctness of the tax bill, the levy may be released while we consider your position. Further, the levy may be released in full or in part if you pay your tax bill or make an acceptable payment agreement.

1. Property Exempt from Levy

Certain types of property are exempt from levy by Federal law. They are:

(a) Wearing apparel and school books. (However, expensive items of wearing apparel, such as furs, are luxuries and are not exempt from levy.)
(b) Fuel, provisions, furniture and personal effects, not to exceed $500 in value (for the head of household)
(c) Books and tools used in your trade, business or profession, not to exceed $250 in value.
(d) Unemployment benefits.
(e) Undelivered mail.
(f) Certain annuity and pension payments.
(g) Workmen's Compensation.
(h) Salary, wages or other income subject to a prior judgment for court-ordered child support payments.
(i) Deposits to the special Treasury fund made by members of the armed forces and Public Health Service employees on permanent duty assigned outside the United States or its possessions.
(j) A minimum exemption for wages, salary and other income of $50 per week, plus an additional $15 for each legal dependent.

The Internal Revenue Service employee levying on property of the type described above will, where applicable, appraise and set aside to you the amount of such property declared to be exempt. If you object at the time of the levy to the valuation fixed by the employee making the levy, you can request a valuation by three disinterested individuals.

2. Property Generally Not Levied On

As a matter of policy, some types of property are generally not levied on, or are levied on only in flagrant and aggravated cases of refusal to pay. These include, for example, the following:

(a) Social Security benefits.
(b) Medicare payments.
(c) Welfare payments.
(d) Payments under the Manpower Development and Training Act of 1962 or the Area Redevelopment Act.
(e) Cash loan value of insurance policies.

(f) Death benefits.

(g) Pension plan proceeds.

(h) Contributions to individual retirement accounts (IRA) and KEOGH accounts.

(i) Household property, for a head of household, up to $1,500 and business property up to $1,000, if it is concluded that levy action on property below these amounts would cause severe hardship.

C. Seizures and Sales

1. Seizures

Any type of real or personal property (including residential and business property) may be seized and sold to satisfy your tax bill. However, before seizing property, IRS considers other means of collection and factors such as your equity in property and the sale value of the property. Before seizing an ongoing business, all facts and circumstances are thoroughly considered and every reasonable effort is made to collect the delinquent taxes on a voluntary basis. Management concurrence is required before a seizure can be made.

2. Sales

After we seize property for nonpayment of taxes, we then take action to sell it. Except in the case of perishable property, which must be sold immediately, we do not sell until at least 10 days after notice to you and to the public about the proposed sale. Prior to sale, we compute a minimum price that we will accept at the sale and advise you of the amount. If you are in disagreement, you may request a Service valuation engineer or a private appraiser to assist the Internal Revenue Service employee in reevaluating the computation figures.

3. Proceeds of Sales

Sale proceeds are applied first to the expense of the levy and sale; the remaining amount is then applied against the tax bill.

If the sale proceeds are less than the tax bill and expenses of levy and sale, the unpaid portion will, of course, be subject to further collection action. When sale proceeds exceed the tax bill and expenses of levy and sale, the surplus money is held by IRS pending a request for distribution. Unless a person, such as a mortgagee or other lienholder, submits a claim superior to yours, these excess funds will be credited or refunded to you upon your request.

4. Release/Redemption of Property

We may release the property to you if you pay an amount equal to the amount of the Government's interest in the property, you enter into an escrow arrangement, you furnish an acceptable bond, or you make an acceptable agreement for payment of the tax.

You have the right to redeem your property prior to the sale. Redemption consists of paying the tax due, together with the expenses of the seizure. Also, real estate may be redeemed at any time within 120 days after the sale by paying the purchaser the amount he/she paid for the property plus interest.

D. 100 Percent Penalty

To encourage prompt payment of withheld taxes as provided by law, and to insure ultimate collection of these taxes from a secondary source, the law provides for the establishment of a 100% penalty. Any person required to collect, truthfully account for, and pay over withheld taxes who willfully fails to collect the tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade the payment of the tax, shall, in addition to other penalties provided by law, be liable for a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over.

The term willful, as used above, means intentional, deliberate, voluntary or knowing as distinguished from accidental. Willfulness is meant to be the attitude of a person who, having a free will or choice, either intentionally disregards the law or is plainly indifferent to its requirements. The penalty can be asserted even though there may not have been any evil intent or desire to defraud the Government of such funds. For purposes of asserting the 100% penalty, a responsible person is defined as one who has the duty to direct the act of collecting, accounting for, and paying over withheld monies.

The 100% penalty is generally used in cases involving corporations where there is a refusal or neglect to pay the withheld tax. It is made against the responsible officers, employees or other persons who had the duty to direct payment of the taxes withheld from the wages of the employees. When the person responsible for withholding, collecting and paying over taxes cannot otherwise be determined, the Service will look to the President, Secretary and Treasurer of the corporation as responsible officers.

If we recommend assertion of the 100% Penalty against you, you will be given the opportunity to contest the recommendation through a discussion with the employee's Group Manager. Further, you may request a hearing before the Regional Director of Appeals if you disagree with the district's conclusions. However, once we assert the penalty, the Service can then take collection action against the individual assets of the responsible person(s).

It is the policy of the Service that the 100% penalty will be used as a collection device. It is not the intent of the Service to make a double collection by collecting the tax from the corporation and the same amount from the responsible officer(s) through the 100% penalty. In fact, if after the assertion of the 100% penalty, there is further collection from the corporation of the withheld tax portion of the liability, the 100% penalty may, to the extent of collection, be abated.

In determining the amount of the 100% penalty, any payment made on the corporate account involved is deemed to represent payment of the employer portions of the liability (employer's share of social security and all assessed and accrued penalties and interest) unless there was some specific designation to the contrary by the taxpayer at the time of payment. The taxpayer, of course, has no right of designation in the case of collections resulting from enforced collection measures. To the extent partial payments exceed the employer portion of the tax liability, they are considered as being applied against the withheld tax portion of the liability.

V. Claim Procedures

A. How to Claim a Refund or Credit

Once you have paid your tax bill or that portion of the bill which covers at least one employee for one quarterly period, you have the right to file a claim for refund or credit if you feel the tax is erroneous or excessive. You can obtain the necessary forms and information about filing your claim by calling or visiting any Internal Revenue Service office. You should file your claim by mailing it to the Internal Revenue Service Center where the original return was filed. (Claims on 100% penalties should be filed in the district where the penalty was paid.)

B. Time for Filing a Claim for Refund or Credit: General Rule

You must file a claim for refund or credit within three years from the date the return was filed (returns filed before the due date are considered to have been filed on the due date) or within two years from the date the tax was paid, whichever date is later.

C. Limit on Amount of Refund or Credit

Limits on amounts of refund or credit are governed by the time period between the date you filed your tax return and the date you filed your claim. For claims filed within three years of the date of a timely filed tax return, the credit or refund may not exceed the amount of tax paid within that three year period. This would include amounts paid prior to the due date of the tax return (such as Federal Tax Deposits made before the return is due) since these amounts are considered paid on the due date. If you do not file your claim within three years of the date of a timely filed tax return, the credit or refund may not exceed the amount of the tax paid within the two years immediately preceding the filing of your claim.

D. Processing Claims for Refund or Credit

Your claim for refund or credit may be accepted as filed, or may be subject to examination. If your claim is examined, the procedures are the same as in the examination of a tax return. (Publication 556, "Examination of Returns, Appeal Rights and Claims for Refund," is available at your local IRS office to explain our procedures for examining returns and claims.)

E. Rejected Claims—Filing Suit in District Court and Court of Claims

If we reject your claim, you will receive a statutory notice of disallowance of your claim. After receiving a notice of disallowance you may file a suit for refund in a U.S. District Court or in the U.S. Court of Claims. You must file suit within two years from the date the notice of disallowance is mailed to you.

Also, if we haven't acted on your claim within six months from the date you filed it, you can then bring suit for refund. If you seek prompt court action, without availing yourself of an IRS determination, a request in writing, that the claim be immediately rejected, must accompany your claim for refund. You can obtain information about procedures for filing suit in the District Court by contacting the Clerk of your District Court. You can obtain information about procedures for filing suit in the Court of Claims from the Clerk of the Court of Claims, 717 Madison Place, N.W. Washington, D.C. 20005.

VI. Rights

The following section contains an explanation of taxpayer rights. Read this section carefully to be sure that you are aware of the rights which may pertain to your tax accounts.

A. Representation

You may represent yourself or you may be represented by an attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service. If your representative attends a conference without you or telephones us on your behalf, your representative must file a power of attorney or a tax information authorization before receiving or inspecting confidential information.

Form 2848, "Power of Attorney," or 2848D, "Authorization and Declaration," (or any other properly written power of attorney or authorization) may be used for this purpose. Copies of these forms may be obtained from any Internal Revenue Service office.

B. Transfer of Your Tax Case to Another Geographical Area

In any case where your tax problem can be handled more quickly and conveniently in another district, you may request that the case be transferred to that district. If you give a valid reason when making your request, the case will be transferred. For example, this would be done when your place of residence changes either before or during the discussion of your tax case.

C. Receipts

You have the right to receive a receipt for any payment you make on your account. You also have the right to receive copies of all contractual arrangements (such as an offer in compromise) which you make with us.

D. Confidentiality of Tax Matters

You have the right to have your tax case kept confidential. The IRS has a requirement under law to protect the confidentiality of your tax return information. However, if a levy is served or if a Notice of Federal Tax Lien or lawsuit is filed, certain aspects of your tax case (such as the amount of tax due and the type of tax owed) may become a matter of public record.

E. Elimination of Penalty— Reasonable Cause

The Internal Revenue Code provides for elimination of penalties when you show reasonable cause rather than willful neglect for either late filing of a return or late payment of a tax. Reasonable cause, broadly defined, is a cause which arises despite ordinary care and prudence exercised by you. If you believe you have reasonable cause for elimination of a penalty, discuss your reason with our representative. If he or she agrees, your penalty will be eliminated upon your supplying us a written statement setting forth the facts establishing reasonable cause. (Under the law interest cannot be eliminated due to reasonable cause.) If our representative does not believe you have established reasonable cause, you may appeal this determination to The Regional Director of Appeals. You may make known your desire to appeal, either in writing or orally, to our representative. You will then be contacted and a conference will be arranged at a time and place that is mutually convenient.

F. Offers in Compromise

By law you have the right to submit an offer in compromise on your tax bill. The Commissioner of the Internal Revenue Service has the authority to compromise all taxes (including any interest, penalty, additional amount or addition to tax) arising under the Internal Revenue laws, except those relating to alcohol, tobacco, and firearms.

A compromise may be made on one or both of two grounds—(1) doubt as to the validity of the amount owed or (2) doubt as to your ability to make full payment of the amount owed. The doubt as to the validity of the amount owed must be supported by evidence and the amount acceptable will depend upon the degree of doubt found in the particular case. In the case of inability to pay, the amount offered must exceed the total value of your equity in all your assets. The amount offered must also give sufficient consideration to your present and future earning capacity which may require a written agreement to pay a percentage of future earnings as part of the offer. A written agreement may also be required to relinquish certain present or potential tax benefits.

(Individual hardship of a temporary nature alone is not a basis for our accepting an offer.) In addition, in the case of employment tax liabilities of an employer still in the same business as when the liability sought to be compromised was incurred, favorable consideration may not be given to the offer unless it is equal to the unpaid liability, exclusive of penalties and interest, and then only if the financial condition of the employer is such that no greater amount can be collected and current taxes are being paid.

Submission of an offer in compromise does not automatically suspend collection of an account. If there is any indication that the filing of the offer is solely for the purpose of delaying collection of the tax or that delay would negatively affect collection of the tax, we will continue collection efforts.

All forms necessary for filing an offer in compromise, plus additional information regarding the procedure, can be obtained at many local Internal Revenue Service offices.

G. Managerial Review of Employee Decisions

If at any step in the collection process you do not agree with the recommendations of our employee, you have the right to discuss the matter with his/her manager. Our employees will tell you the name and location of their manager.

H. Entry Upon Private Property

You have the right to refuse permission for Collection personnel to enter upon your private property when the purpose of the visit is to conduct a seizure of your assets. If you decide to avail yourself of this right, the IRS may then decide to seek court authorization to enter upon the property to carry out the seizure action.

I. Problem Resolution Program (PRP)

The PRP is designed for taxpayers who have been unable to achieve a resolution to their tax problems through the other avenues of review explained in this booklet. To use the service you should contact the Problem Resolution Officer, who is available in each of our District offices. You may contact the Problem Resolution Officer on our toll free telephone system or visit him/her in the District office.

VII. Federal Tax Deposits (Form 941— Employer's Quarterly Federal Tax Return)

In order to avoid future bills for unpaid taxes you should pay the amount of tax due with Federal Tax Deposits. Each quarter you will receive a supply of Form 501, "Federal Tax Deposit of Withheld Income and FICA Tax." All you have to do is fill in the form and take or mail it and the payment to either a Federal Reserve Bank or a financial institution authorized to receive deposits. You can obtain the names of financial institutions authorized to receive deposits at your local bank or Federal Reserve Bank.

When you receive your Federal tax deposit form, make sure your address, tax period ending, and type of tax are correct. If these items are not correct, correct them on the form and use the form to make a deposit. If the employer identification number or taxpayer's name is incorrect, *do not* use the form to make deposits. Request additional forms as explained below.

If you need deposit forms you can order them through your local Internal Revenue Service District Office. You can use as an order blank one of the preprinted forms we mailed to you. In the box labeled "Tax Period Ending," correct the preprinted date if you are requesting forms for another tax period. In the space labeled "Bank Name/Date Stamp," write the number of forms you need for the tax period. If you do not have a preprinted form, your request should show your name, address, employer identification number, the kind of tax you will deposit, and the date the tax period ends. In either case, you should receive the requested forms in approximately three weeks. When you receive the new forms, destroy the remaining incorrect ones. (BE SURE TO REQUEST ADDITIONAL FORMS EARLY ENOUGH TO MAKE YOUR DEPOSITS ON TIME.)

If you don't receive forms in sufficient time to make a deposit, mail your payment to the Internal Revenue Service Center where you file your return.

If you have a preprinted form, and either the employer identification number or name is incorrect, correct the form in ink and enter the number of forms needed for the remaincer of the tax period in the "Bank Name/Date Stamp" space. Mail the corrected form with your payment to the Internal Revenue Service Center where you file your return.

If you do not have any preprinted forms, your payment should show your name, address, employer identification number, kind of tax you are paying, and the tax period ending date.

If you fail to deposit employment taxes by the prescribed date, and your failure was without reasonable cause, you will be penalized 5% of the underpayment. For additional information on the proper procedure for using Federal Tax Deposits, secure a copy of either Circular E, "Employer's Tax Guide," or Notice 109, "Information about Depositing Employment and Excise Taxes," at your local Internal Revenue Service office.

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Attachment #3

Sec. 6331. Levy and distraint.

(a) Authority of Secretary.

If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official. If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property.

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (d)(3), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

(c) Successive seizures.

Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the United States for which levy is made, the Secretary may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Salary and wages.

(1) **In general.** Levy may be made under subsection (a) upon the salary or wages of an individual with respect to any unpaid tax only after the Secretary has notified such individual in writing of his intention to make such levy. Such notice shall be given in person, left at the dwelling or usual place of business of such individual, or shall be sent by mail to such individual's last known address, no less than 10 days before the day of levy.

(2) **Jeopardy.** Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(3) **Continuing levy on salary and wages.**

(A) Effect of levy. The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

(B) Release and notice of release. With respect to a levy described in subparagraph (A), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released.

(e) Cross references.

(1) For provisions relating to jeopardy, see subchapter A of chapter 70.

(2) For proceedings applicable to sale of seized property, see section 6335.

In '76, P.L. 94-455, Sec. 1209(d)(1), added para. (d)(3), for levies made after '76. P.L. 94-528, Sec. 2(c), postponed the effective date to 2/28/77.

—P.L. 94-455, Sec. 1209(d)(2), substituted "Except as otherwise provided in subsection (d)(3), a levy" for "A levy" at the beginning of the second sentence in subsec. (b), for levies made after '76. P.L. 94-528, Sec. 2(c), postponed the effective date to 2/28/77.

—P.L. 94-455, Sec. 1209(d)(4), deleted "No additional notice shall be required in the case of successive levies with respect to such tax." the last sentence in para. (d)(1), for levies made after '76. P.L. 94-528, Sec. 2(c), postponed the effective date to 2/28/77.

—P.L. 94-455, Sec. 1906(b)(13)(A), substituted "Secretary" for "Secretary or his delegate" each place it appeared in subsecs. (a) and (d), and in subsecs. (b) and (c) effective 2/1/77.

In '71, 92-178, Sec. 211, redesig. subsec. (d) as (e), and added new subsec. (d), with respect to levies made after 3/31/72.

In '66, P. L. 89-719 added the second sentence of subsec. (b) applicable after 11/2/66, regardless of when a lien or title of the U.S. arose or a lien or interest of any other person was acquired.

Attachment #4

P–5–14 *(Approved 3-6-78)*

Installment agreements

Although there is no specific authority for allowing a taxpayer to liquidate a delinquent account by installment payments, installment agreements are to be considered, and may be entered into, when appropriate.

Attachment #5

5244.33 *(2-10-82)*
Levy Service

(1) The Collection Office function (COf) will serve Notices of Levy using Form 668–A, Notice of Levy, or Form 668–W, Notice of Levy on Wages, Salary, and Other Income, as appropriate.

(2) Caution should be exercised to ensure that the conditions of IRM 5320, Notice of Levy Procedures, and IRM 5330, Notice of Levy in Special Cases, are observed. When it is determined that the COf should proceed with levy action, the following preliminary steps should be taken:

(a) If the TDA involves a defaulted payroll deduction agreement on a military employee, the procedure in IRM 5256.22:(4) should be followed.

(b) For Notices of Levy on wages of branch office employees of large employers, the address on the Notice of Levy and its place of service, unless local knowledge indicates otherwise, should be based on the establishment number on the Notice of Levy.

(c) Certain addresses for Notice of Levy service are listed in Document 6408, Notice of Levy Address Directory. See IRM 5326.1 for further information.

(3) Insert the batch designation in the lower left corner of the Notice of Levy. For any Notice of Levy generated by IDRS without statutory additions and totals, calculate the amounts and enter on the Notice of Levy prior to serving it. Attach the quadruplicate copy of the IDRS levy (or a levy control card for manually prepared levies) to the TDA and return the TDA to the batch file.

(4) Prior to issuing a Notice of Levy, ensure that the requirements of IRM 5244.23:(5)(f), regarding the mailing of Final Notice, have been met.

(5) To verify that all debit and/or credit postings are current, check the subject IDRS module(s) on the terminal, using CC SUMRY, before the levy is served.

(6) Service by mail will be made whenever possible, since it generally means substantial staffpower savings to both the third party and the Government. If the party served initially refuses acceptance by mail, an attempt should be made to secure an agreement in writing to accept mail service in the future. See IRM 5325. If the Notice of Levy cannot be mailed, arrangements should be made for personal service. In such cases, the TDA need not be transferred to the Collection Field function.

(7) Immediately after service of a Notice of Levy, Part 1 of the form, properly certified as to service, will be returned to the COf. At the time of the batch review, TDAs on which Notices of Levy have been initiated should be noted that Part 1 has been received, thus indicating that service of the Notices of Levy has been accomplished.

(8) IDRS generated Notices of Levy merely represent a computerized storage and printing capacity. The fact that IDRS generates a Notice of Levy in no way implies that the Notice of Levy must be served. The effective and equitable use of a Notice of Levy must be based on the best judgment and determination of the employee working the case.

(9) For Notices of Levy served on government agencies, research Document 6408 to determine the proper address.

(10) See IRM 5322.3 for managerial approval requirements prior to levy on income of both spouses owing a joint liability. Generally, levy should be made on the spouse with the larger income (see Exhibit 5200–5).

5244.34 *(2-10-82)*
Continuous Levy on Wages, Salary and Other Income

(1) Detailed procedures concerning levy on wages, salary or other income are provided in IRM 5322.

(2) The Notice of Levy, when served with respect to salary or wages for personal services, continues in effect until the liability for which it was served is fully satisfied or becomes unenforceable due to lapse of time. Since service can result in the receipt of installment payments over a period of time, procedures have been developed to transfer these accounts to a specially designated continuous levy file in the Collection Office function (COf).

(3) When two consecutive remittances have been received as a result of the service of a Form 668–W, and it has been determined to allow the liability to be satisfied by levy rather than pursue other collection possibilities, the account, with management concurrence, should be transferred to the continuous levy file.

(4) Since these accounts presently cannot be systemically monitored, as are most installment agreements, the continuous levy file must be manually monitored in the (COf). Accounts originating from both the (COf) and the Collection Field function will be forwarded for assignment to the continuous levy file.

(5) These accounts will be monitored at least monthly to ensure that the remittances have been received.

(6) When remittances unaccountably vary or stop, contact the party levied upon to determine the cause. Based upon the results of this contact, the account may be retained in the continuous levy file or reassigned for the resumption of collection action. In the latter instance, if appropriate, the levy should be released (see IRM 5329 for processing).

(a) if further action can be taken by the (COf), transfer the account to the consolidated batch or to the revenue representative function.

(b) If no further action can be taken by the (COf), transfer the account to the Collection Field function.

(7) When receipt of a remittance indicates that the next scheduled remittance will satisfy the terms of the levy, Form 668–R, Release of Levy on Salary, Wages, or Other Income, should be used to notify the party levied on of the final remittance amount (tax, penalty, interest and lien fees, if applicable) needed to fully discharge the liability. The form advises the party that release of the levy is conditional upon final payment. Form 668–R should also be used to release a levy where full payment is received or the taxpayer makes arrangements to satisfy the liability. Form 668–R contains a copy for the party levied upon and the taxpayer.

(8) Upon receipt of the final remittance, the levy must be promptly released. Provide a copy of the release to both the taxpayer and the party levied upon.

5320 *(4-14-78)*
Notice of Levy Procedures

5321 *(4-14-78)*
Pre-Levy Action

(1) If preliminary actions to collect are without success, the possibility of levying on property or rights to property of the taxpayer in the hands of a third party should be explored. If it is determined that levy action is required, Form 668-W, Notice of Levy on Wages, Salary and Other Income, or Form 668-A, Notice of Levy, should be prepared as shown in Exhibits 5300-5 and 5300-4.

(2) Prior to preparing Form 668-A or 668-W, reasonable care should be used to determine the proper party to be served with the notice of levy. The same care should be used in ascertaining the amount to be included on the levy form.

(a) IDRS generated notices of levy for accounts which have had no Notice 504 (Fourth Notice) issued, will not have the "statutory additions" and "total" amounts systemically entered. The correct accrual and total figures are to be manually entered by the district office when the levy is to be served.

(3) The notice of levy forms contain the information necessary to meet all statutory requirements. The filing of a notice of tax lien is not mandatory prior to the service of a notice of levy on wages, salaries, commissions, or other compensation, bank accounts, or other simple contract debts in the hands of third parties. In these instances, whether a notice of lien should be filed will depend upon the facts and circumstances of the case.

(4) Caution should be exercised in determining which notice of levy form is appropriate to reach the asset under consideration. Form 668-W is used to attach amounts payable to or receivable by an individual as wages or salary for personal services, or as income derived from other sources. Form 668-A is used to attach any other property or rights to property, belonging to the taxpayer, in the hands of a third party and not subject to the exemptions of Code section 6334(a)(9). Form 668-B, Levy, must be used in conjunction with Form 668-A, Notice of Levy, to seize assets of the taxpayer in the possession of a third party. See IRM 5341.1:(2).

(5) *See IRM 5330 for instructions relating to notices of levy on Federal employees and other special cases.*

5322 *(4-14-78)*
Levy on Wages, Salary and Other Income

5322.1 *(4-14-78)*
Limitations

(1) Levy on Wages, Salary and Other Income is limited as follows:

(a) an amount of $50 per week is exempted from levy on wages and salary for personal services and other income for each taxpayer against whom a levy is served.

(b) an additional $15 weekly is exempted for the spouse of the taxpayer and each dependent of the taxpayer, as defined in Code section 152(a)1-9.

(c) the levy, when served with respect to salary or wages for personal services, continues in effect until the liability for which it was served is fully satisfied or becomes unenforceable due to lapse of time.

(d) the person levied upon will be issued a release of levy promptly when the liability is fully paid or becomes unenforceable due to lapse of time.

(e) Income not paid or received on a weekly basis will, for the purposes of computing exemptions, be apportioned on a weekly basis so that individuals who are paid on other than a weekly basis will have an exemption from levy equivalent, as nearly as possible, to the exemption afforded individuals who are paid on a weekly basis.

5322.2 *(7-23-79)*
Procedures for Levy on Wages, Salary and Other Income

(1) Form 668-W has been developed for use when levy is made on wages, salary and other income. The form is essentially the same as Form 668-A, except that it contains the provisions relating to exempted amounts, the continuous effect of a levy on salary and wages and levy release requirements. The form also advises the person levied on that interest and failure to pay penalty continues to accrue until the liability is satisfied. Form 668-A, Notice of Levy, will continue to be used to levy in all instances other than those involving wages, salary and other income in the possession of third parties for which the exemptions of Code section 6334(a)(9) apply.

(2) The initiator's name, title and complete mailing address must be inserted on Form 668-W so that the person levied on will know where subsequent remittances will be mailed for prompt credit to the taxpayer's account.

(3) Salary or wages, for purposes of Form 668-W, includes all amounts receivable as remuneration for personal services rendered in the context of a work relationship.

(4) Form 668-P, Statement of Personal Exemptions, is provided for the taxpayer to list those dependents for whom he/she will be allowed a $15 exemption. The form is a three-part snap-set assembly. The original will be returned to the issuing Service employee with Part 1, Form 668-W. The duplicate copy is to be retained by the person levied on, and the triplicate copy is the taxpayer's copy.

(5) Notice 110A is to be delivered or mailed to each third party on whom a Form 668-W is served.

(a) Every effort must be made to make clear to the party being served the differences between Form 668-W and Form 668-A, espe-

Attachment 6

5341 *(7–23–79)* Pre-Seizure Considerations

5341.1 *(8–11–81)* General

(1) Form 668–B, Levy, is used to levy upon property or rights to property in possession of the taxpayer. When completed, the form contains all information necessary to meet the statutory requirements.

(2) Except in jeopardy situations, before seizure action is taken, the taxpayer should be contacted in person and advised that seizure action will be the next action taken. The taxpayer should be given a reasonable opportunity to pay voluntarily. If personal contact is not achieved, the account history is to be documented as to what attempts were made prior to the seizure.

(3) Policy statement P–5–34 requires that thorough consideration be given to the facts and circumstances of a particular case before a decision is reached to seize a going business and offer it for sale. The revenue officer and group manager must carefully weigh all opposing considerations and satisfy themselves that every reasonable effort has been made to collect the delinquent taxes on a voluntary basis. This policy applies to seizure of the business' principal tangible assets in the possession of the taxpayer that are used in the active conduct of the business, as well as to the business itself.

(4) When property belonging to the taxpayer is in the custody of a third party, Part 4 of Form 668–B should be given to the third party in possession of the property. Examples of this type of property would be automobiles on a private parking lot, securities in the hand of a stockbroker, and a safe-deposit box at a bank.

(5) The determination to seize and the authority to sign Form 668–B, Levy, is generally delegated by the district directors to GS–9 and above revenue officers. Before the actual seizure is undertaken, the TDA case file will be reviewed and the proposed seizure concurred in by the group manager. The group manager's concurrence will be denoted by signature on Part 1 of Form 668–B.

(6) If the property to be seized is the personal residence of the taxpayer, prior written concurrence of the next higher level of management must be secured on Form 668–B.

(7) Telephone concurrence and post review signing by the group manager may be made when there is insufficient time for the revenue officer to secure written concurrence before a seizure is made. In such cases, a notation of the telephone concurrence and the date will be inserted on the appropriate signature line of Form 668–B. The group manager must sign Form 668–B before the appropriate copy is forwarded to SPf. Local management should ensure that telephone concurrences are warranted by the facts of the case, and not used indiscriminately as a routine matter.

(8) When a revenue officer determines that it is necessary to seize property in possession of the taxpayer but has not been delegated the authority to sign Form 668–B, the revenue officer must confer with the group manager to discuss the reasons for recommending that such action be taken. If the revenue officer is assigned to an office where direct contact with the group manager is not feasible, a telephone conference will be held with the revenue officer, a GS–9 or above revenue officer assigned to the same office, and the group manager. If the group manager determines that seizure action is appropriate to adequately protect the interests of the Government, the GS–9 or above revenue officer will sign the Form 668–B.

(9) Prior to seizing property, the revenue officer should assure that a Notice of Federal Tax Lien has been filed. This is not a statutory requirement. However, in order that the Service can maintain its priority against other parties to whom the taxpayer might convey an interest in the property, it is the policy to file a Notice of Federal Tax Lien before seizure of property. *(See policy statement P–5–47, and IRM 5424.)* If Notice of Federal Tax Lien is mailed, prior to the seizure, the revenue officer must ascertain that it is recorded with the local registrar before proceeding with the seizure.

(10) Before seizing property housing a United States Postal Service, the nearest postal inspector should be advised of the contemplated action. A seizure will not be made without first discussing with a postal inspector the effect the seizure will have on the service to patrons of the postal service. Every effort should be made to avoid interfering with continued postal service to the public during the seizure and sale of the property.

(11) In addition to the revenue officer assigned the TDA(s), at least one other Service employee *must* assist in the seizure. This is desirable so that more than one individual will be available to testify as to the regularity of the proceeding. In outlying offices where only one revenue officer is stationed, a revenue agent from the same location may assist in the seizure provided approval is secured from the group manager of the revenue agent.

(12) If the use of an assisting service employee involves excessive travel, the district director can approve the use of a local, state or Federal law enforcement officer. The non-Service employee is used as an observer only, and has no authority to assist in the seizure. The revenue officer must state on the TDA history sheet the circumstances leading to the use of a non-Service witness. A complete identification of the law enforcement officer (name, title, badge number, etc.) is required.

(13) Prior to levy on the property of the taxpayer, Form 668–B should be prepared. In proceeding to levy, the revenue officer and assisting employee(s) should identify themselves by presenting their credentials, stating their mission and exhibiting the levy form. The revenue officer should then read the statement on the form to the taxpayer, or the taxpayer's agent at the site of the seizure, or permit him/her to read it. If, at this point, the taxpayer makes full payment of the assessment plus *all* additions, or states he/she is prepared to do so *immediately*, the seizure will be discontinued and will not be recorded. If the taxpayer does not full pay or arrange for full payment, the revenue officer should then proceed with the seizure action as prescribed in these instructions. *See LRG 334.3.*

(14) Even though by statute, no service is required in connection with Form 668–B after the instructions in (13) have been complied with, Part 3 of the Form 668–B should be left with the taxpayer. Where personal service cannot be made, Part 3 should be mailed to the taxpayer's last known address within two business days of seizure. Parts 1 and 2 of Form 668–B contain two statements concerning the taxpayer's presence during inventory. At the time of the seizure, the revenue officer will complete and sign the first statement, which indicates that the taxpayer was asked to be present during inventory. When inventory is taken, the revenue officer will complete the second statement, which indicates whether the taxpayer or the taxpayer's representative was present.

(15) Whenever possible, the revenue officer should choose the time and location for the seizure that will minimize the chances for conflict. Consideration should be given to the nature of the neighborhood, the presence of third parties, and what is known of the taxpayer's previous actions. (See IRM 5146.) A revenue officer is not authorized to use force in the seizure of property. Thus, if the taxpayer or any other person bars the path or approach of the revenue officer and clearly indicates that he/she will use force in attempting to prevent the seizure, the revenue officer should withdraw and report the matter to the group manager.

(16) If the revenue officer is in the process of actually seizing the property and is physically attacked, the revenue officer may use such force as is necessary to protect himself/herself and stop the attack. The seizure should be discontinued and the assault reported to Inspection Service as outlined in IRM 5145. Protection of the employee's well-being is of first importance. In no case should the revenue officer use excessive force. Excessive force may possibly subject the revenue officer to proceedings for assault and battery under state law. *See LRG 335.3.*

(17) Generally, revenue officers have the right to enter onto public or private premises to carry out their official duties. However, several qualifications or precautions, depending upon ownership and type of premises involved, should be observed.

(a) If the premises consist of a private residence owned by the taxpayer, revenue officers have the authority to enter onto the premises and to seek an interview with the taxpayers. However, if denied entrance, they have no authority to enter the residence. *Revenue officers should not attempt any entrance unless the taxpayer or another adult gives them specific permission.* If thereafter, the revenue officers are requested to leave the residence, they should immediately comply.

(b) If personal property is located outside the residence but still on the private premises of the taxpayer, the provisions of IRM 5342 are to be followed.

(18) If tenant occupied property is involved in the seizure, the revenue officer will take whatever steps are necessary to insure that innocent third parties are not financially injured by the seizure action.

(19) A revenue officer should not physically seize property from the person of the taxpayer or from the person of any other party against the individual's will. Seizure of property from the person of an individual can only be made by voluntary compliance with a request from the revenue officer.

(20) A search warrant cannot be issued to a revenue officer authorizing entry upon private premises to search for property to be seized for distraint purposes. *Rule 41 of the Federal Rules of Criminal Procedures (Title 18 U.S.C.) is the sole authority for the issuance, execution, and return of federal search warrants.* That rule only authorizes issuance of warrants to search for and seize property stolen or embezzled in violation of the laws of the United States, designed or intended for use or which is or has been used as the means of committing a criminal offense, or possessed, controlled or designed or intended for use or which is or has been used in violation of Title 18, U.S.C. 957 (possession of property in aid of foreign government). *See IRM 5342 for instructions relating to the seizure of assets located on private premises.*

(21) The appropriate warning notice (Publication 34, 180, or 787) should be signed by the revenue officer and attached to the property being seized. A warning notice is not required to be posted when a taxpayer's personal residence or unimproved real estate property is seized. If the taxpayer's entire business is under seizure, it will not be necessary to attach a warning notice to each item; however, a sufficient number of notices should be attached to clearly identify the property under seizure. After attaching the warning notices, the revenue officer should begin to inventory the property under seizure. *See IRM 5341.4:(4) for delay, under certain circumstances, in taking an immediate inventory.*

(22) Property that must be moved for storage should not be personally moved by the revenue officer. Commercial services should be used. *See IRM 5343.3.*

(23) Mail which has not been delivered to the addressee is exempt from levy by statute. *See IRM 5314.1.* If mail is delivered to property under seizure and comes into possession of the Service, it should be promptly turned over unopened to the taxpayer or his/her representative.

(24) Exhibit 5300–49 contains a reference guide which provides a step-by-step reference of the actions required in connection with seizure and sale.

5341.2 *(3-30-81)*
Equity Determination

(1) The revenue officer must determine that there is sufficient equity in the property to be seized to yield net proceeds from sale to apply to the unpaid tax liabilities.

(2) The determination in (1) above applies to *all seizures* regardless of whether a writ of entry or other judicial approval is required.

(3) Except in jeopardy situations, public records must be examined prior to seizure to determine whether there are any liens superior to the Federal tax lien. If a superior lien exists, the unsatisfied amount must be considered in determining the taxpayer's equity. Form 2434–B, Notice of Encumbrances Against Property Offered for Sale, must be used to record information concerning superior liens (see IRM 5363.2(4) and Exhibit 5300–21). Letter 1029(DO) may be used to verify the unpaid balance of encumbrances. If there are no encumbrances superior to the Federal tax lien, Form 2434–B is not required. However, the TDA history should be noted with the date and results of the records check. If public records cannot be checked prior to seizure because of a jeopardy situation, they will be checked at the earliest possible date after the seizure is made. The TDA history must be documented with the facts that led to the determination that a jeopardy situation existed.

(4) If it is determined after seizure that the taxpayer's equity is insufficient to yield net proceeds from sale to apply to the unpaid tax, the revenue officer will immediately release the seized property (see IRM 5345 and 5351:(8)).

(5) When it is determined that proceeds from sale will be small in comparison to the liability for which the seizure was made, the revenue officer and group manager will decide if pursuit of seizure and sale action is warranted.

5341.3 *(8-11-81)*
Document Preparation, Review and Control

(1) All seizure and sale documents should be prepared and transmitted to Special Procedures function within 5 days after the related action has occurred. The reason for any delay should be documented in the TDA history sheets. Any corrections to the documents as originally submitted to Special Procedures function should be fully explained on the corrected document or by routing slip.

(2) Group managers will review the TDA history file and Form 4585, Seizure and Sale Worksheet, to determmine if the minimum bid price has been properly established (see IRM 5361). Once it is determined that the minimum bid price has been properly established, the minimum bid should be examined to insure that it will produce proceeds to apply to the account(s) for which the seizure was made after the estimated expenses have been paid.

(3) Documents related to seizure and sale should be reviewed by the group manager for consistency in reporting or reasons for any differences. For example, the description of inventory on Form 2433, Notice of Seizure, should be consistent with the entries on Form 2434, Notice of Public Auction Sale, Form 2434–A, Notice of Sealed Bid Sale, Form 2435, Certificate of Sale of Seized Property, etc. In all cases the group manager must review and sign Form 4585. Group managers are not required to review Form 2436, Seized Property Sale Report, and the Sale of Acquired Property Report (IRM 5396) prepared by GS–9 and above revenue officers. SPf will be responsible for reviewing these two items for accuracy. In addition, the group manager should ensure that all seizure documents are routed timely to the Special Procedures function.

(4) If seized property is redeemed or released, all property listed on Form 2433 must be accounted for on the release. Similarly, when the sale is completed, there must be either a certificate of sale or a release of levy for all property listed on Form 2433.

(5) The Special Procedures function is responsible for receiving the various documents that comprise the seizure and sale file, assigning seizure serial numbers and maintaining a permanent serial number control register for all seizures conducted within the district, conducting a post-review of the forms and documents to ensure conformity with statutes, regulations and the procedural guidelines of the Internal Revenue Manual, and completing the Seizure Activity Report, Form 6670, for each closed seizure and the semiannual summarization of the forms (See IRM 5(14)72.8). Each seizure document should be reviewed upon receipt. Timely receipt and processing of all documents should be monitored by Special Procedures personnel. The seizure file should be post reviewed upon receipt of Form 2436, Seized Property Sale Report. Local management

should provide for a follow-up system to insure timeliness and completeness of all seizure documents. Periodic quality reviews of seizure files should be conducted by local management to assure that an acceptable standard of performance is maintained. The Special Procedures function should report to the appropriate Collection Field function manager any seizure file open beyond 90 days. At the end of each quarter, the group manager should send a report to the Special Procedures function on such cases, advising why the seizure is still open and the proposed date it will be closed.

5341.4 *(8-11-81)*

Notice of Seizure—Preparation and Delivery

(1) A notice of seizure should be prepared in all cases in which property has been seized. Upon completion of the inventory or as soon thereafter as possible, prepare Form 2433, Notice of Seizure, as shown in Exhibit 5300-12. However, see (4) below for issuance of a notice of seizure before a detailed inventory is completed. *See LRG 338.32.*

(2) Form 2433 is a eight part snap-out assembly providing copies for the taxpayer, Special Procedures function and service center accounting branch. It also provides two parts to be used to release the levy in appropriate cases. See *Exhibit 5300-13 for distribution details.*

(3) The taxpayer is entitled to notice of seizure at the earliest possible time after seizure. If the taxpayer cannot be readily located, the notice should be mailed by certified mail to the taxpayer's last known address.

(4) The items of property seized should be described and identified with reasonable certainty in an inventory listed on the form or in an attachment to it. Form 2433 should be sent to the Special Procedures function within 5 workdays after the seizure is made.

(a) The legal description of real property should be secured from the deed whenever possible, and in all cases the address (or street location), type structure, size of building, intended usage, and such other information as is required to properly describe the property should be included on the notice of seizure and the notice of sale. The certificate of sale, deed or other legal documents should only contain the legal description.

(b) The description of personal property should include, to the extent possible, the type of property, brand name, model description, serial number, quantities (where applicable), intended usage, etc.

(c) When a motor vehicle is seized, in addition to the description of the vehicle (make, type, model, year, odometer reading, etc.,) the inventory should include a listing of optional equipment such as radio, tape player, or air conditioner unit. Any damage such as dents or missing hubcaps, although not included in the description to be advertised, should be noted on Parts 5, 6, and 7 of Form 2433. The trunk and glove compartment should be opened and examined for other property. However, if the vehicle contains an item that demonstrates an expectation of privacy, such as a locked briefcase or locked luggage, the item may be seized but not opened without a consent or writ authorizing entry into that particular article or item.

(d) If a taxpayer seeks personal items in a seized vehicle or business premises, the taxpayer is to be advised that reentering the seized property to recover the personal items is not permitted. The revenue officer and witnessing employee should personally remove and return them to the taxpayer after the taxpayer's receipt of Form 668-E, Release of Levy. The provisions in IRM 5346.1:(4) are to be followed when the taxpayer refuses to sign Form 668-E.

(e) The taxpayer should be questioned as to the property's cost and present value. IRM 5345 contains guidelines for establishing property value.

(f) Contents of cash registers should be inventoried by coin and bill denomination. Checks should be listed individually specifying the bank name and number, date of check, check number and the amount.

(g) The detailed description of individual "grocery" type items and certain retail merchandise inventories (hardware, drugstore, etc.,) may be waived for groupings of like items reasonably described.

(h) Generally, the same description should appear on any subsequent forms completed in relation to the seizure and sale, i.e., Forms 2434, 2434-A, 2435, etc. IRM 5341.4:(4) provides certain exceptions for real property. The reason for any change in description should be documented on Form 4585, Seizure and Sale Worksheet, and become part of the seizure file.

(Next page is 5-300.1)

(5) In some instances it may be desirable to issue a notice of seizure before a detailed inventory is taken. This procedure, however, should only be used when it appears that the work involved in taking the detailed inventory would be unwarranted because of the probability of prompt redemption or release or that the delay may jeopardize the Government's priority claim because of impending bankruptcy or other insolvency proceedings. Under these conditions, a notice of seizure may be issued by showing as complete a description as can conveniently be included at that time, specifically listing the most valuable readily ascertainable items in as much detail as practicable and identifying the rest of the property generally and giving its specific location. The notice should first list the items which can readily be identified and then provide a general description of other property. For example, the general description should be along these lines *"and all the other property of (name of taxpayer) seized on the premises of (complete address) on (date and time). A supplemental notice of seizure providing a detailed itemization of this property will be given as soon as a detailed inventory is completed."* The supplemental notice should identify only the items of property not previously specifically described and should be prepared and transmitted to the Special Procedures function within 5 workdays of the date of preparation. This notice should be marked "Supplemental" and should not be referred to as a "revised" or "amended" notice since it might imply that the original notice was improper and legally inadequate.

5341.5 *(3-18-82)*
Contracting for Seizure Related Services

5341.51 *(3-18-82)*
General

(1) Revenue officers should, to the extent practicable, use blanket purchase arrangements (BPAs) or other simplified procurement methods (e.g., imprest fund, oral purchase) available through Facilities Management to obtain seizure-related services (e.g., towing, storage, guard and locksmith services). See IRM 1(14)2(13).3.

(2) If none of the contracting methods listed in (1) above are practicable, revenue officers, GS-9 and above, are authorized to procure seizure-related services (see Delegation Order No. 106 as revised) with the following restrictions:

(a) procurement authority is limited to $500 per service. (see (3) below),

(b) Standard From 44, U.S. Government Purchase Order-Invoice Voucher, must be used for such purchases, and

(c) there must be sufficient funds reserved to cover the cost of the service(s) obtained by SF 44. District management must establish a system to ensure that funds are available prior to the revenue officer contracting for a service.

(3) Revenue officers should take appropriate steps to determine the cost before contracting for a service. Revenue officers can contract for seizure services where total expenses exceed $500 as long as the cost of a single service does not exceed that figure. For example, SF 44s can be used by a revenue officer to contract for a $100 locksmith service, $300 storage, and $200 towing charge.

(4) Revenue officers who identify a need for seizure related services costing more than $500 must submit a requisition to Facilities Management which will contract for the service through normal procurement channels. However, if use of a BPA is possible for a service exceeding $500, revenue officers will immediately contact the contracting officer so that the necessary competition or sole-source justification is obtained. SF 44 cannot be used where the cost exceeds $500. In such cases when emergency situations arise and contracting officers are unavailable (i.e., weekends, holidays, and nonwork hours) revenue officers may contract for a service and subsequently submit a requisition to the contracting officer for approval with the following information:

(a) a full description of the items or services required,

(b) the cost of the items and services,

(c) the vendor's name, address, and telephone number, and

(d) a narrative, signed by the revenue officer, explaining the circumstances which precluded obtaining prior contracting officer approval.

(5) Emergency contracting must be kept to a minimum since ratification of procurements in such situations must be approved by the Assistant Secretary (Administration) at Treasury.

(6) If after contracting for a service, the revenue officer finds unanticipated costs would increase the cost or the time involved (e.g., addi-

tional storage costs for a seized vehicle because of postponement of a sale), a requisition must be submitted to Facilities Management for procurement action.

(7) The "Taxpayer Identification Number" and "Indemnification of Locksmiths" clauses are shown on the reverse side of the IRS version of the SF 44 and should be pointed out to the contractor when services are required. The "Taxpayer Identification Number" clause requires the contractor to include his or her Social Security Number (for individuals) or employee identification number (for other entities) on invoices. Thus, contractors who furnish services must show their number in the block entitled "Payee" on the front side of the form. The "Indemnification of Locksmiths" clause is only applicable to orders for locksmith services.

5341.52 *(3-18-82)*
Preparaton of SF 44

(1) The IRS version of SF 44 is a five part carbon snap-set issued in books of 25. District Collection management will be responsible for controlling and issuing SF 44 books to revenue officers. The books contain instructions for completing and processing the appropriate parts. Additionally, the book contains a "record of purchases" which must be completed each time a SF 44 is issued. Regional Fiscal Management Branch will not process SF 44s for payment unless they are properly completed.

(2) Federal procurement regulations require written confirmation of the cost of a service. In situations where a SF 44 cannot be issued to the vendor the day the service is performed (e.g., storage of a vehicle where a bill will not be submitted until the service is completed), the cost of the service and a "not-to-exceed" amount must be entered on the SF 44 under the "supplies and services" section. For example, "$5 per day storage fee for 30 days. Total cost not to exceed $150." In such situations the vendor's copies of the SF 44 will be retained by the revenue officer until the service is completed. When the service is completed, note the SF 44 with the actual cost. For example, "actual cost of $125 ($5 per day times 25 days)."

(3) When a SF 44 is completed in accordance with (2) above and there is a need to extend the service which results in the total cost exceeding the "not-to-exceed" amount noted on the SF 44, the SF 44 cannot be used for payment and should be marked "void" and placed in the closed seizure file. The revenue officer must submit a requisition to Facilities Management in sufficient time to allow for establishment of a new procurement instrument prior to expiration of the service as specified in the original SF 44. However, when emergency conditions exist and it is not possible to promptly submit a requisition to Facilities Management, the revenue officer will:

(a) obtain telephonic approval from the contracting officer to continue the service and submit a requisition within three workdays to Facilities Management, which will issue a confirming order to the vendor. The confirming order will cite the date and scope of the agreement, including costs and the new completion date; or,

(b) if it is not possible for the revenue officer to contact the contracting officer, he/she may enter into an agreement with the vendor to extend the required service for a limited duration. A requisition must then be submitted to Facilities Management within three workdays, and must include all the required documentation necessary to enable the contracting officer to ratify the commitment. (Commitments over $500, which require approval by the Assistant Secretary (Administration) at Treasury, should be avoided.) In addition to providing funds for the limited extension of services acquired by the revenue officer, the requisition should also provide for further coverage which may be required, thereby enabling the contracting officer to appropriately contract for the full scope of work.

(4) Care must be taken in completing the SF 44 to ensure that the writing is legible. Enough pressure must be used to ensure that all copies are legible. In addition to signing the document, the revenue officer must print his/her name clearly.

(5) To ensure prompt payment, Part 3 of SF 44 should be forwarded to the Regional Fiscal Management Branch (Accounting Section) immediately upon completion of the service.

(6) For services procured by SF 44, the revenue officer will submit a copy of the vendor's bill (if available) and Part 5 of SF 44 for each service to Spf with Form 2436, Seized Property Sale Report.

(7) Part 4 of the SF 44 must be submitted to Facilities Management.

(8) If a SF 44 book, individual SF 44s, or a portion of any SF 44 is lost or stolen, a report should be made to the chief, Collection (group

2. Provide the Subcommittee with a detailed summary, with appropriate citations, of the policies, procedures and guidelines the Internal Revenue Service follows regarding the use of armed force and the arming of Service personnel.

I Use of Armed Escorts for Collection of Taxes

(A) In general, Internal Revenue Manual Section 5146 describes how revenue officers who are not authorized to carry firearms in performance of official duties, may request, through their group manager, that a special agent from Criminal Investigation be assigned as an armed escort. Policy Statement P-9-17 directs that "Armed escorts for Service personnel will be provided, when necessary, to prevent interference in the performance of official business."

(B) No specific set of guidelines can be laid out to describe the decision-making process in determining whether armed escorts are required or how many are required. The facts of a case are reviewed by the revenue officer and group manager. If they feel an armed escort is required, they contact Criminal Investigation and, if necessary, Inspection. Under certain circumstances (e.g., enforcement of Writs of Entry), the Department of Justice may be contacted. The Internal Revenue Service has no control over the determination of how many U.S. Marshals are to be used to enforce a Writ of Entry.

(C) IRM 926(12)(5) states that "special agents and revenue officers will, if time permits, have a planning meeting to discuss the facts bearing upon the request (for armed escorts)." It is the responsibility of participants in the planning session to analyze the situation and determine the appropriate roles and numbers of individuals who will take part in the armed escort.

II Use of Armed Force and the Arming of Special Agents

(A) IRM 9756.4 sets forth that permission to carry firearms will normally be at the discretion of the special agent's immediate supervisor and if the special agent is engaged in enforcement activities of such a nature that prudence indicates a need for them may arise. Special agents must be qualified with their weapon within the past six months. See Attachment 1.

(B) IRM 9756.5 sets forth guidelines for use of a weapon. See Attachment 2. In summary it states:

  (1) Weapons may be used only as a last resort only to prevent threat of death or serious bodily injury.

  (2) Warning shots are prohibited.

  (3) Firing at a moving vehicle is prohibited unless the vehicle poses a threat or serious bodily injury.

  (4) Firing at a fleeing person will not be considered unless the Agent has a reasonable cause to believe the person poses a threat of death or serious bodily injury.

  (5) Only reasonable and necessary force should be used. The agent should allow an escape rather than risk inflicting bodily harm by shooting

(C) IRM 9756.6 covers carrying of firearms and armed escorts on commercial aircraft. These conform to Federal Aviation Administration guidelines. See Attachment 3.

(D) IRM 9756.7 and 9756.9 covers guidelines on chemical weapons. Chemical weapons provide the Agent with an alternative to the use of deadly force. Chemical weapons may be used only when milder forms of persuasion are ineffective and deadly force is not justified. Detailed instructions on the use of mace and providing first aid treatment is covered. See Attachment 4.

(E) IRM 9756.1 and 9756.2 set forth IRS standards for firearms and ammunition. See Attachment 5.

(F) IRM 9768.1 to 9768.5 sets forth firearms training guidelines. See Attachment 6.

(G) Policy Statement P-9-37 states that investigators will only use such force as is reasonable and necessary under the conditions which confront them. See Attachment 7.

(H) The guidelines regarding issuance and use of weapons are repeated in the special agent's handbook, section 373.48. See Attachment 8.

manager in streamlined districts). The report should contain the following information:

(a) name and post of duty of the revenue officer to whom the SF 44s were assigned;

(b) order number of missing SF 44s;

(c) date SF 44s were lost or stolen;

(d) a brief statement of circumstances surrounding the loss or theft; and

(e) a statement of action taken to recover the receipts.

(9) The chief, Collection (group manager in streamlined districts) will immediately notify (by transmitting the report referred to in (8) above) the chief, Fiscal Management Branch in the regional office. The notification will ensure that Fiscal does not make any payment on lost or stolen SF 44s. (It is recommended that Fiscal be notified immediately by telephone, followed by the above report).

(10) If the lost or stolen SF 44s are recovered, the chief, Collection (group manager in streamlined districts) should be notified promptly.

(11) The chief, Fiscal Management will be notified at once that previously reported lost or stolen SF 44s have been recovered. The necessary identifying information, i.e., numbers, date reported lost or stolen, etc. should be provided.

(12) Collection group managers are responsible for reviewing SF 44 books during revenue officer performance analysis in order to account for all SF 44s. (See IRM 5185.)

5342 *(7-23-79)*
Seizure of Assets Located on Private Premises

5342.1 *(7-23-79)*
General

(1) The Supreme Court of the United States held in *G.M. Leasing v. United States*, 429 U.S. 338 (1977) that a warrantless entry onto the private areas of personal or business premises of a taxpayer for the purpose of seizing property to satisfy a tax liability is in violation of the Fourth Amendment to the Constitution of the United States. As a result, before such seizures are made, revenue officers must either secure the taxpayer's written consent to entry or a court order permitting the entry. By taxpayer is meant an individual, corporation, partnership, or trust, etc. The right of privacy belongs to the rightful occupant of the premises and, therefore, consent to enter is to be obtained from the occupant. Exhibit 5300–46 furnishes answers to questions arising in property seizures. Since every situation cannot be anticipated, discretion should be exercised in those instances not covered by the Manual text or questions and answers. Questions of a unique and non-recurring nature should be referred to District Counsel.

(2) The revenue officer and assisting Service employee(s) are to enter the public portion of the premises, present their identification, and speak with the taxpayer or the person in charge if the taxpayer is not present.

(3) The revenue officer is to tell the taxpayer or the person in charge that the purpose of the visit is to levy on the taxpayer's assets located on the premises.

(4) If invited, the revenue officer may accompany the taxpayer or person in charge to the business office, or similar private area, to discuss the matter privately. However, such invitation cannot be considered a consent to enter a private area for the purpose of seizure. A written consent must be obtained from the taxpayer or a court issued writ obtained.

(5) If the taxpayer claims the amount of the liability is substantially incorrect, the revenue officer will contact the group manager to verify, through the Integrated Data Retrieval System, if any additional credits have posted.

(6) If, after a conference with the taxpayer the revenue officer determines that seizure action is appropriate, the assets located in the public area of the business premises may be seized and arrangements made for their removal. If such assets are not sufficient to satisfy the taxpayer's liability and the revenue officer believes that the assets in both the public and private areas should be seized, the revenue officer may make the discretionary decision to either wait until a writ is received before seizing the public portion of a premise, permitting the seizure of the entire premises (both public and private portions) at one time, or seizing the assets located in the public portion of a premise prior to obtaining a writ to seize the assets in the private portion. If any assets in the private areas of the premises are to be seized, written consent or a writ of entry is required.

5342.2 *(11-20-78)*
Document Preparation

(1) Assets currently under seizure, from actions taken prior to the *G.M. Leasing decision* of January 12, 1977, that had been seized on the private areas of personal or business premises, cannot normally be sold without obtaining a consent of Entry to Inventory and Sell Seized Property, Pattern Letter P-575 (Exhibit 5300-41). If the taxpayer refuses to sign the consent or cannot be located, the property will usually be released. However, if it is believed the existing circumstances warrant retention of the property, Regional Counsel should be contacted for advice.

(2) Prior to visiting the taxpayer's premises, the revenue officer will prepare the seizure documents and obtain group manager concurrence.

(a) If situational or distance problems are foreseen which would preclude the revenue officer from returning to the office to request a writ, a Data Sheet. Pattern Letter P-584 (Exhibit 5300-43) and an Affidavit of Revenue Officer, Pattern Letter P-577 (Exhibit 5300-44) will be prepared, to the best of the revenue officer's knowledge, and left with the group manager. See (4) below. That portion of the narrative statement of the affidavit that cannot be completed prior to visiting the taxpayer's premises will be completed by the revenue officer's group manager, after the visit, if consent is not obtained.

(b) Under normal circumstances, if consent is denied, the revenue officer will, within two work days of the denial, prepare a Data Sheet (Exhibit 5300-43) and an Affidavit (Exhibit 5300-44) to secure a writ. See IRM 5342.7. If the Data Sheet and Affidavit are not completed and on their way to SPS and Regional Counsel within two work days after the denial, a memorandum explaining the delay will be sent to SPS for inclusion in the seizure file. When consent is denied and the revenue officer does not seek a writ, the history sheet must be fully documented as to why non-pursuit of a writ is appropriate.

(3) The revenue officer will attempt to secure the taxpayer's written consent to enter the private area of the business premises for the purpose of seizing assets located there. Consent to Enter Private Premises, Pattern Letter P-576, (Exhibit 5300-42), is to be used to obtain the taxpayer's consent. If the taxpayer or duly authorized representative signs the consent form the revenue officer will follow the procedures in IRM 5341.3 and 5343, with respect to taking inventory and securing the premises. A copy of the consent form will be provided the person who signed it.

(a) In most instances the seizure will be made immediately after the consent is signed. As a general rule, however, the seizure should be made not more than 7 working days from the date of the consent. If seizure is to be later than 7 days, a new consent should be requested.

(b) Where it is not possible to request consent in person, the taxpayer should be requested by mail or telephone to come to the revenue officer's office to give consent. The consent must be signed by the taxpayer, or the taxpayer's authorized representative, to be valid. However, the taxpayer can refuse in person, by mail, or by telephone to give consent. If all attempts to contact the taxpayer fail, this should be documented in the revenue officer's affidavit requesting a writ of entry.

(c) Duly authorized people are considered to be those persons with the authority to make contracts and enter into other legal agreements for the entity. This would not include an ordinary employee of a business. It may include a person with a power of attorney or with corporate authority to enter into legal agreements. It may include a manager of a business if the manager generally has authority to obligate the business. If any doubt exists as to the authority of a representative to sign a consent in behalf of a taxpayer, Regional Counsel should be contacted for advice.

(4) When the taxpayer or duly authorized representative refuses to execute a consent, and the revenue officer cannot return to the office to secure a writ to complete the seizure action, the group manager will be contacted by telephone and apprised of the facts of the situation. The group manager will prepare an Affidavit, Pattern Letter P-578 (Exhibit 5300-45), from the information obtained from the Affidavit of Revenue Officer, Data Sheet, and telephone conversation. It will essentially advise the court that the information stated in the affidavit was provided to the group manager by the revenue officer whom the group manager considers to be a reliable source of information.

5342.3 *(11-20-78)*
Determining Public and Private Areas

(1) The Internal Revenue Service is responsible for ensuring that distraint actions do not result in "unreasonable searches or seizures" which would violate taxpayer's Fourth Amendment rights. Therefore, a revenue officer must exercise judgment in determining what areas of a taxpayer's premises require either consent or a writ prior to entry for the purpose of seizure.

(2) The following are examples of "public and private" portions of business premises.

a The dining area of a restaurant is a public area. The area behind the counter, the store room, the kitchen and the taxpayer's office are considered private premises which are not to be entered for seizure purposes unless the taxpayer signs a consent or a writ of entry is obtained.

b The sales area of a retail store is a public area. The stock room and the area behind the counter are considered to be private areas that can only be entered after securing the taxpayer's consent or a writ of entry.

c In factories and other places of business, without specified public areas, those areas normally accessible to the public during the ordinary course of business will be considered public areas subject to seizure. All other areas will be considered private areas which can only be entered with the taxpayer's consent or a writ of entry.

5342.4 *(11-20-78)*
Seizure of Both Public and Private Premises

(1) If the taxpayer does not sign the consent, and the revenue officer opts to seize the public portion prior to securing a writ, Form 668-B will be read, thereby advising the taxpayer or person in charge that the public premises and its contents have been seized. Form 2433, Notice of Seizure, will be prepared listing the property located in the public area. The revenue officer will further advise that although the Service has seized the public premises, neither seizure, entry, nor inventory will be made of the private portion of the seized premises until a writ is obtained.

(2) The revenue officer is to explain to the taxpayer that:

(a) The Internal Revenue Service can secure a locksmith's services (as part of the seizure expenses to install a double key lock, namely, a key lock requiring two separate keys to open. If acceptable to the taxpayer, the revenue officer will keep one key and the taxpayer will keep the other. This ensures that property kept in the private area will not be accessible to the revenue officer without the taxpayer's knowledge and concurrence. The revenue officer will also advise that, during the period of seizure and until a writ of entry is received, the taxpayer can have access to the private areas at any time mutually convenient to the revenue officer and the taxpayer (normally, during weekday business hours). "Warning—United States Government Seizure" (Publication 34 or Publication 787 will be placed on the lock).

(b) If the taxpayer does not agree with the double-lock proposal, but is willing to turn over the keys to the premises, the premises will be secured using the taxpayer's keys. The locks and/or doors will be sealed with warning notice, Publication 34 or 787, so the taxpayer cannot enter the premises with duplicate keys without breaking the warning notice. The taxpayer will be advised of the penalty for rescue of seized property. Reentry of the premises will not be made until the writ of entry is obtained.

(3) If the taxpayer neither agrees to the double-lock proposal nor voluntarily turns over the keys, the revenue officer will proceed to place warning notices on the exterior of the premises.

(a) If the contents of the premises are not readily removable, such as equipment in a manufacturing plant, the revenue officer will leave the area and proceed to secure a writ of entry to complete the seizure action.

(b) If the assets are readily removable, such as the contents of a jewelry store, one revenue officer (or other Service employee) will remain outside the premises to record and be witness to any unauthorized removal of the assets by the taxpayer. The other revenue officer will telephone and request the group manager to secure a writ to complete the seizure action.

(4) In non-consent cases, where a double lock or a taxpayer's existing lock has been used, once the premises are seized, locked and secured, the revenue officer will initiate the necessary steps to obtain the writ of entry permitting entry into the private areas of the seized premises. Generally, the revenue officer will forward the request for a writ within two working days of the seizure. In certain situations, the revenue officer may delay the processing of the request for a writ of entry, such as where the taxpayer requests the revenue officer in writing to delay processing, so that satisfactory arrangements for payment and subsequent release or redemption of the property may be arranged. However, under no circumstances should this postponement be any longer than 7 working days.

(5) Once the writ of entry is obtained or the taxpayer gives written consent, the revenue officer should inventory all property in the public and private areas in preparation for the sale. At this time, the lock(s) should be changed so that the Service has sole possession of the premises.

5342.5 *(8-11-81)* Exceptions

(1) If the revenue officer observes situations that can be described as "exigent circumstances," the private portion of the premises can be entered without a writ of entry. A seizure under exigent circumstances may be defined as a seizure that must be made immediately, because there is not ample time to secure the necessary writ of entry to prevent the taxpayer from putting property beyond the reach of the Service. A jeopardy or termination assessment by itself is not sufficient to satisfy this exigent circumstances exception. Removal of property from the taxpayer's premises in the ordinary course of business, such as delivery of merchandise sold to customers, is not an exigent circumstance. In cases where exigent circumstances exist, the revenue officer may immediately enter private premises, from which property is being removed, without waiting for the writ of entry, to protect the interests of the government. The revenue officer should be reasonably certain that the taxpayer is attempting to put property beyond the reach of the Service before a seizure under exigent circumstances is made. The case file should be documented with the facts that led to a determination that "exigent circumstances" existed.

(2) If a taxpayer has previously placed assets beyond the Service's grasp after having been forwarned of enforced collection by the consent request, a writ of entry should be sought without attempting additional consent procedures. The affidavit furnished the court must state the reason why an attempt to secure consent would compromise collection efforts.

5342.6 *(11-20-78)* Local Guidelines

It is anticipated that there may be administrative problems in obtaining writs of entry in certain districts. For example, the seizure, for which the writ of entry is being obtained, could be several hundred miles from the revenue officer's post of duty or the property being seized could be located in a state where there is no Regional Counsel office. The district director should adopt flexible procedures to meet the particular situations, including the use of telephonic or facsimile communications, if appropriate. When it is anticipated that administrative problems will be encountered, procedural guidelines, if not contrary to Manual provisions should be prepared and issued by the district director, after consultation with Regional Counsel and the U.S. Attorney.

5342.7 *(11-20-78)* Writ Procedures

(1) When the taxpayer refuses to execute consent, the revenue officer will advise the group manager that a writ is needed. The affidavit of revenue officer, Pattern Letter P-577 or P-578 and the Data Sheet will be completed and taken or sent to Regional Counsel for review as soon as possible. After review, Regional Counsel will refer the matter directly to the U.S. Attorney for handling. Regional Counsel will advise the revenue officer or group manager of the place and time of the appointment with the District Court Judge or Magistrate. The revenue officer or group manager will be present to answer questions the Judge or Magistrate may ask concerning the seizure.

(2) If the group manager is obtaining the writ for revenue officer, the group manager will arrange for the writ to be delivered to the revenue officer at the seizure site.

(3) As soon as the writ of entry is received, the revenue officer will proceed with the seizure. A copy of the writ will be given the taxpayer at the time of seizure or as soon after as possible if the taxpayer is not present at the seizure.

(4) In all instances, revenue officers and group managers will request writs through Regional Counsel.

(5) Generally, writs are in effect for ten days, but a judge or magistrate may impose specific restrictions to limit such time factors.

5342.8 *(11-20-78)* Writ of Entry Denied

If the writ of entry is denied after the premises have been seized, the revenue officer will immediately release the seizure. If it is determined that a new seizure, limited to property located in a public access area, is required, Regional Counsel will be consulted to determine that such action will not conflict with the basis for the denial of the writ of entry for the private premises. If Regional Counsel agrees to a new seizure, the property will be seized and removed to a place for safe storage prior to sale.

5342.9 *(11-20-78)* Miscellaneous Procedures

(1) In no case is a signed consent to be maintained as a measure to guarantee performance of an installment agreement, timely filing, etc.

(2) The revenue officer, with appropriate review by the group manager, may work directly with Regional Counsel to obtain the writ of en-

try. The Special Procedures Staff may be consulted for guidance when needed.

(3) The revenue officer will not reenter partially seized premises without the consent of the taxpayer until the writ of entry is obtained, except in the case of emergencies requiring immediate action to protect and preserve the condition of the property. For example, if flooding occurs due to a storm, the revenue officer should immediately enter the premises and take the necessary steps to minimize the damage.

(4) When allowing the taxpayer or employees to remove personal property from seized premises, normally, small items (purse, shopping bag, etc.) being removed should not be verified by the revenue officer. This could be considered an invasion of personal privacy. However, a revenue officer should rightfully question the removal of items that appear to be business assets.

(5) A revenue officer may normally remain in the public access area of a premise while waiting for a writ to be delivered; however, discretion should be used so that such action does not result in an unnecessary confrontation.

(6) A copy of the consent, or writ of entry will be given the occupant of the premises entered upon to conduct the seizure.

(7) Signed consents and secured writs are to be forwarded through the group manager to SPS for retention in the seizure file.

5342.(10) *(6-2-80)*
Specific Types of Seizure

(1) Cash Register—Without the taxpayer's consent, cash registers or their contents will not be seized without first obtaining a writ of entry.

(2) Personal Residence—Generally, a writ is not required since no entry will be made into a personal residence without the express consent of the person residing in the residence. The revenue officer may seize the residence itself by placing a warning notice on the residence. In unusual circumstances where the contents of a private residence must be seized, consent or a prior writ of entry is required.

(3) Vehicles—Vehicles located on public property, such as a street or state or county road, may be seized by using Form 668-B, Levy. Vehicles located on an unsupervised portion of a third party's premise which is accessible to the general public in the ordinary course of business, such as a shopping center parking lot, may be seized by using Form 668-B, Levy, during the time the premise is accessible to the general public. A vehicle within the control and custody of a third party may be levied upon by serving a Notice of Levy, Form 668-A, on the person having custody of the vehicle. If the person having custody of the vehicle agrees to turn over the property, seizure may be effected by service of Levy, Form 668-B. For example, where the taxpayer's vehicle is located on a parking lot owned by a third party, and the attendant is in possession of the keys to the vehicle, a Notice of Levy, Form 668-A, will be served on the attendant. To comply with the Notice of Levy, the attendant should be asked to surrender the keys to the revenue officer. If the third party fails to surrender the keys, and/or denies access to the vehicle, the revenue officer will follow the procedures in IRM 5328.2, "Refusal of Compliance with the Levy." When the parking lot is a "park and lock" facility, and the attendant is not in possession of the vehicle keys, but is basically performing a custodial function, a 668-A, Notice of Levy, will be served to ensure compliance with all Manual procedures. Form 668-B, Levy, will be used to seize the vehicle. Since the taxpayer will probably not be present at the time of the levy action, the taxpayer should be furnished the seizure documents in accordance with the procedures in IRM 5341.3.

(4) Improved Realty Used as Business Property—Business realty belonging to the taxpayer may be seized without obtaining the taxpayer's consent or a writ if entry is not required to effect seizure. Warning notices are to be posted on the outside of the building.

(5) Safe Deposit Box—A safe deposit box will be seized by placing a Seal for Securing Safety Deposit Boxes, Publication 787, on the safe deposit box. If the taxpayer does not voluntarily open the box, a writ of entry may then be sought or a suit requested to authorize entry into the safe deposit box (see section 538(11), Internal Revenue Manual).

(6) Unimproved Real Property—Unimproved real property belonging to the taxpayer may be seized without obtaining the taxpayer's consent or a writ. Warning notices are to be posted on the property.

5343 *(11-20-78)*
Protection During Period of Seizure

Attachment #6 Continued

P-5-34 *(Approved 10-29-73)*

Collection to be enforced through seizure and sale of a going business only after thorough consideration of all factors

The facts and circumstances of the particular case must be thoroughly considered before a decision is reached to seize a going business and offer it for sale under levy proceedings. All opposing considerations must be carefully weighed and the official responsible for making the decision must satisfy himself/herself that every reasonable effort has been made to collect the delinquent taxes on a voluntary basis. If, after thorough consideration, it is determined that enforcement action is necessary, the possiblity of securing collection through court action to foreclose the Federal tax lien, possibly leading to the appointment of a receiver, must be thoroughly considered.

Welfare of patients to be considered before seizing hospital or nursing home

In cases involving nursing homes or hospitals the welfare of the patients must be considered. Seizure of a nursing home or hospital will not be made until we are assured that the patients will be provided for.

This statement of policy is to ensure thorough consideration before deciding to seize a going business. However, once a decision to seize has been made, there should be no hesitancy in pursuing the matter to conclusion.

P-5-38 *(Approved 2-13-78)*

Seizure of Assets Located on Private Premises

Seizure of property located on private premises will not be made unless the person in possession of the property to be seized voluntarily consents, in writing, to entry to seize property; or, a court order is issued by a court of proper jurisdiction authorizing the entry for the purpose of seizure. District Directors will coordinate requests for court orders with District Counsel.

Exception in Cases Where Exigent Circumstances Exist

In situations where exigent circumstances are apparent, entry may be made onto private premises for the purpose of seizing property without prior consent of the person in possession of the property, or the issuance of a court order. A seizure under exigent circumstances may be defined as a seizure that must be made immediately, because there is not ample time to secure the necessary Writ of Entry to prevent the taxpayer from putting seized property beyond the reach of the Service. For example, when property is observed being removed from private premises, or otherwise being secreted, with the apparent intent of placing it beyond the reach of the Government, immediate entry may be made. Forcible entry onto private premises will not be made if such entry would cause a breach of the peace or a confrontation.

Request #9

9. Provide the Subcommitte with statistics and a detailed description of Internal Audit and Internal Security cases relating to complaints taxpayers have made involving agent conduct during the audit and collection process.

The IRS and the Internal Security Division rely, in part, on taxpayers to advise the Service of instances of improper treatment, abuse, fraud, and other violations. They are informed of their rights through various IRS publications, news releases and other media. The Internal Security Division also advertises its availability to taxpayers through posters in IRS offices and presentations to taxpayer, practitioner and professional groups.

Complaints can originate from many sources inside as well as outside the Service and may be received by IRS employees, managers, or directly by Internal Security. Specific procedures are outlined in the Internal Revenue Manual for handling complaints within the Service. All reports of misconduct must be made promptly and directly to Inspection, unless they are purely administrative in nature, in which case they are reported to IRS management.

Each complaint, whether from a taxpayer or employee, received by Internal Security is promptly evaluated to determine if an investigation is warranted. Decisions regarding disposition of information received are approved by at least two levels of Internal Security management. Internal Security also has the responsibility to report allegations of misconduct by senior officials of IRS to the Inspector General, Department of Treasury, who has oversight responsibility over all the Inspection Service functions within Treasury.

There are a number of factors considered in evaluating complaints. If the information is related to the mission of Internal Security and there are logical investigative leads to pursue, then an investigation will be initiated. In some instances, the information is administrative in nature and enough information exists for management to act on. In these instances, the information will be referred to management without investigation. If management feels they cannot take appropriate action without Internal Security assistance, sufficient investigation will be conducted by Internal Security to resolve the issues. Information relating to other agencies or other IRS functions, with no Internal Security interest, is referred for appropriate action within the guidelines of the disclosure laws.

Once an investigation is initiated, sufficient investigation will be conducted to resolve the issues. If the investigation shows there is no basis for the allegation, the investigation will be closed. When the investigation discloses specific misconduct and/or a violation of federal law, the report will be forwarded to IRS management for adjudication or if warranted, to the United States Attorney for prosecutive action. Due to privacy considerations and disclosure laws, complainants are normally not aware of the results of the investigation or the final action taken. In criminal prosecution cases, the matter is part of the public record. Internal Security has appropriate follow up procedures to determine what actions are taken by management as a result of the referral.

In Fiscal Years 1979, 1980 and 1981, a total of 1,687 investigations on employees were referred to management for adjudication. Forty percent of these investigations resulted in either separations (244) and suspensions or reprimands (431). 117 of these investigations were based on complaints from taxpayers and pertained to Examination Division (51) and Collection Division (66) employees. The 117 complaints involved the following type violations in each year.

Alleged Violation	FY 79	FY 80	FY 81
Disclosure	9	7	6
Bribery/Gratuity	4	4	5
Extortion	2	1	1
Fraudulent Claims	3	-	2
Theft	1	1	2
Intimidation/Harassment	6	8	4
Misuse of Position/Badge/Credentials Weapon/or Vehicle	5	6	4
Miscellaneous Misconduct	3	5	2
Preferential Treatment/Conflict of Interest	3	-	5
Discourteous Treatment	2	1	-
Unauthorized Outside Employment	1	1	1
Impropriety During Seizures	1	-	-
Failure to Account for Government Monies	1	-	-
Collusion	1	-	-
Embezzlement	-	2	4
Burglary	-	1	-
Narcotics	-	-	1
Loss of Tax Returns/Records	-	-	1
	42	37	38
Total		117	

Administrative disposition of the 117 investigations was as follows:

Disposition	FY 79	FY 80	FY 81	Total
Clearance Letter/Closed Without Action	27	18	22	67
Oral Admonishment	10	6	5	21
Written Admonishment	2	2	2	6
Suspension	2	5	2	9
Removal/Termination	-	1	2	3
Resigned Prior to Adjudication	1	5	4	10
Pending Adjudication	-	-	1	1
Total				117

In addition to the administrative actions indicated above, in fiscal year 1981, three of the complaints resulted in criminal prosecutions. Two employees were convicted of embezzlement and one entered the Pre-Trial Diversion Program for misuse of government property. Two additional investigations in 1981 are pending prosecution for acceptance of a bribe and/or gratuities.

In fiscal year 1980, one of the investigations resulted in a conviction for extortion and one is pending prosecution for acceptance of gratuities. There were no Examination or Collection Division employees prosecuted as result of the investigations completed in 1979.

During the three year period, 30 of the complaints made by taxpayers involved allegations of intimidation, harassment or misuse of position. Seventeen involved Examination Division personnel and thirteen involved Collection Division. The administrative dispositions of the 30 investigations were as follows:

Clearance Letter/Closed Without Action	- 15
Oral Admonishment	- 9
Written Admonishment	- 2
Suspension	- 2
Resigned Prior to Adjudication	- 2
Total	30

Request #10

10. Review and respond to the cases and the supporting materials supplied by Congressmen Hansen and Young, as per your request, relating to allegations of "abusive" IRS conduct as described in their hearing statements. In addition, Congressman Hansen submitted exhibits (which are enclosed as attachment 3) to the Subcommittee during the hearing which include: correspondence, Association of Concerned Taxpayers newsletters, news clippings, Congressional Record submissions, and How the IRS Seizes Your Tax Dollars and How to Fight Back. The Subcommittee would like you to review these materials and provide a response for the record. To the extent any part of your response cannot be disclosed in a public hearing record because a taxpayer authorization to disclose has not been made, provide such information to the Subcommittee on a separate document clearly noting that I.R.C. Section 6103 information is contained.

Congressman Young has not, as of the date of this reply letter, submitted specific supporting materials to his testimony. Therefore, no response to his cases are possible at this time.

Congressman Hansen has made several allegations in his testimony, submitted exhibits and book concerning perceived systemic and individual abuses by Service employees. A general response to specific allegations is included on this page and a more detailed reply is attached. We believe the allegations to be inaccurate and distorted, and not fairly representative of the Service's policies in general or actions on specific cases in particular.

1. Teton Dam disaster -- Congressman Hansen states in this testimony that "My reasons for being here began in 1976 with the unacceptable IRS behavior in arbitrarily extracting capital gains taxes from Federal reimbursements to flood victims . . . ." It is well known that the Service has no authority to change the law or to excuse taxpayers, no matter what their situations, from complying with it. Therefore, there was nothing arbitrary about the Service's actions See Attachment 1.

2. Forcible removal of a taxpayer from a Volkswagon in Alaska -- While the actions taken by Service personnel were lawful, the forcible removal of the taxpayer from the car was a mistake. Service procedures, nonetheless, have been amended to preclude the reoccurence of this type of situation. See Attachment 2.

3. Car seizure in Craig, Colorado -- Congressman Hansen states in his testimony that a pregnant woman was "dragged from her car by IRS agents, who without showing any authority of any kind, drove off with the car, leaving her stranded." In fact, the woman voluntarily left her car and then telephoned a friend to come pick her up. See Attachment 3.

4 Armed raid in Saint Anthony -- No armed raid was ever planned or carried out by the Service. See Attachment 4.

5. Jury tampering -- The Congressman alleges that information concerning prospective jurors given to a U.S. Attorney by the Service is jury tampering. Congress authorized this type of disclosure in 26 U.S.C. 6103(h)(5). See Attachment 5.

6. Illegal electronic surveillance -- The Congressman alleges that the Service engaged in an illegal electronic surveillance of a person. In fact, 18 U.S.C. 2510 specifically authorizes the consensual monitoring done in this case. See Attachment 6.

7. U.S. District Court opinion -- The Congressman states, in his testimony and a letter to the Commissioner dated November 13, 1981, that the Service's seizure operation is so bad that a Federal court ordered property returned. The court case referred to concerned certain notices not being forwarded to the taxpayers' new addresses by the Postal Service. The houses seized in each case were ultimately sold by the Service. See Attachment 7.

8. A copy of the Commissioner's February 4, 1982, testimony before the Committee on Ways and Means is at Attachment 8 in response to the Congressman's allegation concerning the Service's position on the private schools issue.

9. Chapter 1, entitled "Acts of Terror," of Congressman Hansen's book discusses three situations. The first two situations concern the Alaskan Volkswagon seizure and the seizure at the Snyder residence in Maryland, both previously discussed in our reply. The third situation concerns Mr. Donald McGrath and his shooting by County Sheriff's deputies. The Service was not involved in the shooting incident. See Attachment 9.

10. Chapter 6, entitled "Rigging Elections," discusses the unauthorized disclosure of tax information. The Service has investigated each allegation. Some allegations were unsubstantiated and others resulted in disciplinary action. See Attachment 10, the contents of which are subject to the provisions of section 6103.

11. Chapters 2 and 11 of the book discuss hit lists, spy files, and door-to-door "armed raids." The alleged armed raid has been discussed previously and the Service does not maintain spy files or hit lists. See Attachment 11.

Attachment 1

[redacted]

COMMISSIONER OF INTERNAL REVENUE
Washington, DC 20224

FEB 24 1978

The Honorable George V. Hansen
House of Representatives
Washington, DC 20515

Dear Mr. Hansen:

I have delayed answering your letter of December 13, 1977 awaiting the results of investigations of your charges. While we have not completed all of our various inquiries, I can provide answers to most of the points you raise and will furnish further information as indicated below.

You raised several distinct points about the administration of the tax law as it applies to the victims of the Teton Dam disaster.

The first point concerns the substantive tax law applicable to payments made by the Bureau of Reclamation to victims of the disaster for losses which they sustained. That law is set forth in the Internal Revenue Code and is more fully described in a letter from Mario Lombardo, Chief of our Individual Income Tax Branch, to Gilbert Stamm, Commissioner of the Bureau of Reclamation, dated October 13, 1976. A copy of Mr. Lombardo's letter is attached and designated Attachment 1. The Internal Revenue Service has no authority to change the law nor to excuse taxpayers from complying with it. Further special relief for victims of the Teton Dam disaster would have to be legislated by Congress. In view of your interest in such relief, a copy of your letter has been forwarded to Donald Lubick, the Acting Assistant Secretary for Tax Policy.

We are, however, mindful of the complexities of existing law and the need for affected taxpayers to understand clearly the tax consequences of the various courses of action available to them. Service personnel in our Boise District began an "outreach" program to assist taxpayers in understanding the tax consequences of their actions and complying with the requirements of law. On June 9, 1976, twelve trained IRS tax assistors were added to the staffs of Disaster Assistance Centers. At the same time, our telephone operators completed special training to aid the disaster victims and a special District Technical Committee was established to handle inquiries. These efforts are more thoroughly discussed in the "Teton Report" appearing as Attachment 2 to this letter.

Department of the Treasury Internal Revenue Service

In July, 1976, the District Director of our Boise District sent a letter to taxpayers informing them of the type of records needed to support their treatment of compensation payments on their 1976 returns. In February, 1977, during the filing season, the District Director sent another letter to taxpayers, enclosing worksheets and summary schedules to aid in return preparation and specifically informing taxpayers of the nonrecognition of gain election available under Section 1033 in the event of the acquisition of "like kind" replacement property within two years. These letters and their enclosures appear as Attachments 3 and 4 to this letter.

On October 27, 28 and 29, 1976, seminars were held by our employees for disaster victims in Rexburg, Idaho, under the auspices of the University of Idaho. These seminars were attended by over 500 taxpayers and practitioners. The reaction of taxpayers to these seminars is described in a letter dated November 5, 1976 from the Center for Business Development and Research of the University of Idaho, which appears as Attachment 5 to this letter.

Thereafter, the District Director issued a "Teton Dam Disaster Income Tax Update" setting forth in question and answer form the questions asked and the answers given at a meeting held in the Idaho Falls City Counsel Chambers on November 28, 1977. This update appears as Attachment 6 to this letter.

These efforts were augmented by weekly visits by Service personnel to facilities provided by the Inter-Faith Council in Rexburg, Idaho, by the ongoing programs of two Service offices in the disaster area and through our Statewide toll free telephone assistance.

On the whole we believe the reco[illegible]flects that Service personnel have provided extraordinary [illegible]ance to a group of taxpayers with extraordinary need[illegible] proud of the efforts of our Boise personnel. Ne[illegible] we recognize that in particular instances our p[illegible]onn[illegible] have provided misleading, unclear or inaccurate [illegible]vic[illegible]payers on these complex issues despite their best effo[illegible] do so. I have been informed that you recently co[illegible]rings in your District and may be aware of such [illegible] I ask that you bring specific examples to my att[illegible]or to the attention of the Boise District Director, Philip Sansotta, so that we can initiate a review of these specific cases and make any appropriate adjustments to those returns.

Attachment 2

Allegation:

Woman in Alaska allegedly assaulted by IRS employees who attempted to remove her from a locked car.

On February 15, 1979, a revenue officer contacted Stephen and Mona Oliver to request full payment of their 1976 income taxes in the amount of $4,176.55. The Olivers refused to pay. Therefore, a Notice of Federal Tax Lien was filed on February 22, 1979.

On August 1, 1979, the Olivers' 1970 Volkswagen was seen in the public parking area of the Federal Building in Fairbanks. The car, which was unoccupied, was seized. It was tagged with appropriate warning stickers, and a tow truck was called to remove the auto to a storage facility.

Mr. and Mrs. Oliver then appeared and asked permission to remove personal belongings from the car. Permission was granted, and both Mr. and Mrs. Oliver entered the car, locked the doors and refused to get out. Any action on the part of a taxpayer to regain possession of property after a proper seizure is a criminal offense. The Olivers were asked to leave the car. They refused. Through the U.S. Attorney, IRS personnel obtained a search warrant. The Olivers still refused to leave.

About six hours after the vehicle had been seized, IRS personnel broke two windows to gain access to the car. Mr. Oliver got out of the car, but Mrs. Oliver refused. Two IRS special agents physically removed her from the car. The car was then towed to a storage facility and on August 23, 1979, it was sold at a public auction for $500.

While the actions taken by IRS personnel were lawful and all procedures then in force were complied with, the forcible removal of the Olivers was a mistake. IRS written procedures have been changed to make it clear that IRS personnel cannot use force except in situations involving their safety or the safety of others.

Attachment 3

Allegation:
Craig, Co. woman allegedly dragged from her car.

A taxpayer who was delinquent in paying his 1979 income taxes and was known to be active in the Craig tax protester movement had his car in a parking lot in Craig. A revenue officer recognized the car from information provided by the Motor Vehicle Department. The revenue officer notified the local Craig police to inform them that he was planning to seize the car. He also asked two IRS special agents to escort him in the event violence would erupt, which had happened with previous seizures of assets belonging to Craig protesters. He also asked for assistance from another revenue officer, which is required by IRS procedures.

By the time all the parties involved appeared at the location of the automobile, a woman had gotten into it and was about to leave the parking area. A police car quickly moved to block her exit. The revenue officer then identified himself, presented the seizure documents, and asked her to surrender the car keys. She refused to give up the keys but voluntarily left the car. She then went to a nearby pay telephone and called a friend to come pick her up.

Attachment 4

Allegation:
IRS planned an armed raid on St. Anthony, Idaho.

In 1975, a highly publicized tax movement was known to exist in the St. Anthony/Fremont County area of Eastern Idaho. Revenue officers, revenue agents and special agents assigned to that area recommended that a local returns compliance project be developed to address a problem of possible non-compliance with the tax laws.

Several IRS employees as well as other Federal, State and Local law enforcement agencies frequently received threats of violence from members of the protest movement. Therefore, any personal contacts made with protesters by Collection personnel were accomplished with special agent escorts.

After a screening process of information provided by the state government, the Service identified 155 possible non-filers that qualified for field contact.

In order to conduct the compliance program safely, the plan called for unarmed revenue officers to go to the possible non-filers' residences in pairs. As an additional precaution, armed special agents were to be detailed to nearby locations in case of an assault. Shortly after the plan was devised, the Service decided not to implement it based in part on the possible negative public impact. Instead, letters were mailed to the individuals informing them that the IRS had no record of a 1974 tax return

As a result of a request from Congressman Hansen, we understand that the Inspector General's Office is looking into the matter. When a final report is made, a copy of it may be made available to the Subcommittee by the Inspector General's Office.

Attachment 5

Allegation:
Jury Tampering/Disclosure of Tax Return Information

The jury tampering issue was addressed by the Assistant Attorney General, at Congressman Hansen's request, in a letter to the Congressman dated December 11, 1981. A copy of this letter is attached for your information.

U.S. Department of Justice [redacted]

Criminal Division

(SECTION A - Exhibit #4)

Assistant Attorney General

Washington, D.C. 20530

DEC 11 1981

Honorable George Hansen
House of Representatives
Washington, D.C. 20515

Dear Congressman Hansen:

Your letter to Attorney General Smith alleging further misconduct on the part of agents of the Internal Revenue Service (IRS) and possible misconduct by officials of the Department of Justice has been referred to me.

The matters which you sent to us earlier concerning IRS agents have been referred to the Inspector General of the Department of the Treasury, where there is an open and ongoing investigation. I am sure that the office of the Inspector General will be glad to provide you with any appropriate information concerning the progress of those matters.

Mr. James McKenna of your staff has provided us with some materials intended to document your further concerns. He advised that documentation in the case of Grandbouche, et al. v. Adams, et al., which is involved in your first complaint concerning possible improper interception of oral communications is not presently available since it has been mislaid. When the missing affidavits or other documents are located, we will be glad to have an opportunity to review them.

The second matter you raise involves the use by an Assistant United States Attorney of information provided by IRS concerning prospective jurors. As you may be aware, in 26 U.S.C. 6103(h)(5) Congress specifically provided that in the limited class of cases in which the United States is a party in a judicial tax proceeding, the Secretary of the Treasury is to respond to a written inquiry as to whether any prospective juror has or has not been the subject of any audit or other tax investigation by the Internal Revenue Service. The Secretary's response is limited to an affirmative or negative reply. This information may be requested by either the government or the defense in the same proceeding.

In the case of United States v. Barney, which Mr. McKenna called to our attention, Assistant United States Attorney Jeffrey Viken did make a written request to the District Director of Internal Revenue for advice as to whether any of 67 veniremen had been the subject of any audit or other tax investigation. On July 14, 1981, the District Director responded with a list of 22 of the veniremen as to whom there had been an audit or other tax investigation during the years 1976-1981 and a list of 45 as to whom there had been no such action during that period.

To our knowledge no "computer printout" such as that noted in a letter to Mr. McKenna from Mr. Barney's attorney, Mr. John Konenkamp, was involved and no information exceeding that mandated by the statute was provided to the government. While the information received could have been requested by defendant's counsel, it appears that no such request was made. As the order evidences, the district court agreed that the material was not a proper subject of a motion for discovery. While 26 U.S.C. 6103(h)(5) authorizes the disclosure of this information to the defense upon a written request, made to the Department of Treasury, it does not authorize disclosure by the United States Attorney. The appeal filed on behalf of Mr. Barney by his attorney did not raise this issue; a pro se brief filed by the defendant does make allegations that the government acted improperly with regard to the jury. Since this matter is presently before the courts, any further comment at this time would be inappropriate.

On page 3 of your letter you request comments regarding a Federal grand jury subpoena which was apparently issued in furtherance of an investigation of a tax crime. More specifically, you suggest that the use of the grand jury subpoena constituted an abuse of process for various reasons, primarily that the IRS has its own administrative summons authority. For the follwing reasons, there is no indication of impropriety in the matter.

First, there is no limitation upon the types of Federal criminal cases which can be investigated by a Federal grand jury. In fact, indictment by a Federal grand jury, unless waived, is a constitutionally mandated precondition of a Federal felony trial involving tax or nontax crimes. Second, once a determination has been made to seek the imposition of criminal sanctions for a tax offense, it would be an abuse of process for the IRS to issue an administrative summons in the case. (See United States v. LaSalle National Bank, 437 U.S. 298 (1978)). Third, there is no requirement that a Federal grand jury subpoena, issued to an innocent third party such as a bank, state the specific offense that is being investigated; rather, that is the function of the grand jury indictment if one is ultimately returned. Fourth, it is standard procedure to permit subpoenaed parties to surrender the subpoenaed records to agents of the grand jury; in tax cases, agents of the grand jury normally include agents and auditors of the IRS. I note that the instant subpoena allows the bank to provide the documents only to an "authorized representative" of the Internal Revenue Service. On this point, it would seem to be an unnecessary burden upon subpoenaed parties, for example, if a Federal prosecutor were to demand that a bank officer in Pocatello personally deliver subpoenaed bank records to the Federal grand jury which normally sits in Boise. Fifth, even the Right To Financial Privacy Act of 1978, which imposes handling restrictions upon financial records subpoenaed by a grand jury (12 U.S.C. 3420) in addition to those set out in Rules 6 and 17 of the Federal Rules of Criminal Procedure, does not require that bank officers personally deliver subpoenaed records and does not prohibit agents of the grand jury from analyzing such records. Finally, the notice and challenge provisions of the Internal Revenue Code (26 U.S.C. 7609) apply only to IRS administrative summonses and not to Federal grand jury subpoenaes or any other form of legal process; similarly, the notice and challenge provisions of the Right To Financial Privacy Act do not apply to Federal grand jury subpoenaes (12 U.S.C. 3413(i)).

I hope this information is of assistance to you.

Sincerely,

D. Lowell Jensen
Assistant Attorney General
Criminal Division

BY: Philip T. White
Philip T. White
Acting Deputy Assistant Attorney General

Attachment 6

Electronic Surveillance

The Service is authorized to conduct "consensual monitoring" of non-telephone conversations with the authorization of the Attorney General or any designated Assistant Attorney General in accordance with the Attorney General's memorandum dated September 22, 1980. Specific statutory authority is contained in 18 U.S.C. §2510. The term consensual monitoring means the investigative interception, overhearing, or recording of a private conversation by the use of mechanical, electronic or other devices, with the consent of at least one, but not all, of the participants, as contrasted to "NON Consensual Monitoring," where no participants consent. The Service is specifically prohibited by 18 U.S.C. §2516 from conducting non-consensual monitorings in investigating violations of Title 26. Service procedures contained in IRM 9389.2 and 9389.3, the Special Agents Handbook (Section 341.331) and Policy Statement P-9-35 set forth the procedures to be followed in order to obtain the required authorizations to conduct a consensual monitoring of a private conversation in a criminal investigation.

Congressman Hansen also provided the Subcommittee with a letter, dated October 26, 1979, from Thomas Clancy, Director, Criminal Investigation Division, to Philip Wilens, Director, Office of Enforcement, Criminal Division, Department of Justice, which requested approval of the use of electronic listening devices in a particular case. As the Commissioner's designee, Thomas Clancy was authorized to request Department of Justice approval for non-emergency consensual monitoring. Also, he could authorize emergency consensual monitoring so long as he notifies the Office of Enforcement Operations.

Attachment 7

U.S. District Court Opinion

The referred to court case is a decision of the U.S. District Court for the District of Colorado which involved Michael Tangren and Richard Broom. Notices of deficiency were sent to each taxpayer "at his last known address" in accordance with IRC section 6212. The notices were not forwarded to the new addresses of the taxpayers by the Postal Service. The Court held that the IRS "could have contacted them earlier through the exercise of reasonable deligence." and enjoined the IRS from further action until new notices of deficiency are sent to the taxpayers' current addresses.

The IRS Collection representative who issued the final notices before seizure was unaware of the taxpayers' new addresses even though Examination personnel were aware of them.

Both houses were ultimately sold by the Service.

Attachment

Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

Vol. 128 WASHINGTON, WEDNESDAY, MARCH 10, 1982 No. 23

House of Representatives

IRS A THREAT TO FREE PRACTICE OF RELIGION

IN THE BEGINNING—NOT GOD, BUT THE IRS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1982

● Mr. HANSEN of Idaho. Mr. President, in the beginning was not God, but the Internal Revenue Service. Then came God with His great celestial construction project—the creation of Heaven and Earth.

It had to be so, else who would have collected the taxes to pay for all the Federal inspections—or who would have furnished the W-4's to determine the withholding tax of those white-collared heavenly paper shufflers and those blue-collared working angels. And certainly God could not be relied on to file those quarterly employer taxes without being made to feel the awesome power of the IRS.

Since the best way to get a taxpayer's attention is to smash the person next to him, the IRS went after Satan. They seized his possessions, including his last suit of clothes, and embarrassed him so badly that he is still a ripe red.

The biggest problem the IRS had with old Belzebub's estate was how to dispose of that kind of hot property which was on the wrong side of the tracks, populated with spiritual slum-dwellers, not suited for development, and infested with rats.

And God was impressed—impressed that the IRS could kick the devil out of things like that.

But deep down, over the years, God has had to smile because the IRS has never had much luck in getting good value for property they seize from taxpayers. In fact, since there was no sale for the devil's land, the IRS has been doing their best ever since to give the people hell.

So, if the IRS regulated the Creator and creation, and expanded the devil's work, who would daresay they are not qualified to be the czar of religion on Earth. Who has more of an original claim to qualify and regulate your churches and religious schools? After all, there is no known weapon so awesome as an IRS-manned qualification checklist equipped with an exemption and deduction weapons system powered by audit and locked onto target by a W-4 guidance system.

Lo, if the days of Earth are numbered and
fire is to be her end,
Will it come as one last desperate ploy because an IRS seizure pends?●

IRS A THREAT TO FREE PRACTICE OF RELIGION

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 10, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, there is great concern for the dangerous challenge to the first amendment guarantee of freedom of religion arising from recent legislative proposals and Federal court decisions. The administration's ill-considered legislative effort and the February appeals court decision, in fact, create an Internal Revenue Service control over church schools and even religion itself through the tax exemption process.

The original Reagan action in January 1982 to remove the IRS from its emerging role as czar of religion was well taken and the reversal of this decision is wrong, whether done by Congress or by the courts.

The IRS has been creeping into the social reform enforcement business for many years and began in 1975 requiring schools to state that they are nondiscriminatory in order to keep their tax-exempt status. When that agency made its ill-famed presumptuous and secretive move to broaden its control over, as well as "discriminate" against, private schools, I was the congressional "whistle blower" who exposed the effort which prompted quick temporary blocking action by the Congress. However, permanent congressional protection is essential, especially in view of this newest attack on first amendment rights.

When leading national church school officials, broadly representing bipartisan social interests, held their first major press conference in February to challenge the administration's legislation, I was the only congressional spokesman—and I plan to continue to speak out for religious freedom.

It now appears the main thrust of this unwarranted proposal intruding on the rights of religious schools has been blunted, but we must continue to strongly urge its defeat and initiate additional efforts to offset the court's unfortunate ruling.

My legislation, the Taxpayer Protection Act (TPA), H.R. 4931, is the best weapon to permanently end the IRS threat to the free practice of religion and any unacceptable Government determination of favored and unfavored religious doctrine through the dangerous and arbitrary use of tax exemptions.

The TPA not only will stop IRS abuses against citizens in tax collection, but it specifically forbids the IRS from making any determination or definition of religion as spelled out in the Bill of Rights of the U.S. Constitution.

Mr. Speaker, the Taxpayer Protection Act (H.R. 4931) already has broad congressional support, and I strongly encourage those Senators and Congressmen who are yet uncommitted to become early sponsors of this much needed taxpayer relief legislation.

I also strongly encourage immediate committee action in both the House and Senate with adequate opportunity for the people, indeed the victims of the IRS, to be heard—and the subject should be confined to the operating procedures and questionable tactics of the IRS, not a distortion which forces testifiers to waive their personal rights and thus become a diversionary target to shift the spotlight from the wayward ways of the IRS.●

ORAL

STATEMENT

OF

ROSCOE L. EGGER, JR.

COMMISSIONER OF INTERNAL REVENUE

BEFORE THE

COMMITTEE ON WAYS AND MEANS

FEBRUARY 4, 1982

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THE OPPORTUNITY TO APPEAR TODAY TO DISCUSS THE SERVICE'S ADMINISTRATION OF THE LAW WITH RESPECT TO TAX EXEMPTION FOR RACIALLY DISCRIMINATORY PRIVATE SCHOOLS AND DEDUCTIBILITY OF CHARITABLE CONTRIBUTIONS TO THEM. ACCOMPANYING ME IS MR. KENNETH W. GIDEON, IRS CHIEF COUNSEL.

IN MY PREPARED STATEMENT, I HAVE DISCUSSED IN SOME DETAIL THE SERVICE'S PAST HANDLING OF THE SCHOOLS PROBLEM. ALTHOUGH THAT HISTORY IS VERY IMPORTANT, IT IS ALSO IMPORTANT THAT THE PROBLEM BE EXAMINED IN THE CONTEXT OF THE SERVICE'S OVERALL ADMINISTRATION OF THE EXEMPT ORGANIZATIONS AREA. IN THIS SENSE THEN, I WOULD LIKE TO COMMENT BRIEFLY ON THE HISTORY OF OUR APPLICATION OF THE TAX LAW RELATING TO EXEMPT ORGANIZATIONS SO THAT THE FUNDAMENTAL TAX ADMINISTRATION DILEMMA WHICH IS NOW HIGHLIGHTED BY THE PRIVATE SCHOOLS ISSUE MAY BE EVALUATED.

SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE PROVIDES FOR THE EXEMPTION OF ORGANIZATIONS ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, OR EDUCATIONAL PURPOSES. THIS BASIC LANGUAGE IN THE CODE HAD ITS ORIGIN IN OUR TAX LAW

IN THE TARIFF ACT OF 1894 AND HAS REMAINED LARGELY UNCHANGED SINCE THEN. UNTIL THE 1950'S, THE SERVICE INTERPRETED THIS LANGUAGE QUITE LITERALLY IN DETERMINING WHETHER AN ORGANIZATION WAS ENTITLED TO EXEMPTION. IN PARTICULAR IN THE CASE OF ORGANIZATIONS DESCRIBED AS CHARITABLE IN ORDER TO QUALIFY AS "CHARITABLE", THE ORGANIZATION HAD TO DEMONSTRATE THAT IT PROVIDED AID TO THE POOR AND DISTRESSED REGARDLESS OF OTHER QUALIFICATIONS.

AN ENTIRELY DIFFERENT APPROACH WAS TAKEN IN THE ESTATE TAX AREA, THAT IS, WITH RESPECT TO THE CHARITABLE DEDUCTION FOR ESTATE TAX PURPOSES. THERE, THE TERM CHARITABLE WAS INTERPRETED BROADLY SO AS TO INCLUDE ORGANIZATIONS GENERALLY DEEMED TO BE BENEFICIAL TO THE COMMUNITY. IN RETROSPECT IT IS DIFFICULT TO UNDERSTAND HOW SUCH DIFFERENT VIEWS OF ALMOST IDENTICAL STATUTORY LANGUAGE REMAINED UNRECONCILED FOR SO MANY YEARS.

BY THE 1950'S, THE SERVICE'S NARROW INTERPRETATION OF THE TERM CHARITABLE IN THE INCOME TAX AREA HAD BECOME VERY DIFFICULT TO DEFEND. IN A 1953 CASE, FOR EXAMPLE, THE TAX COURT REJECTED THIS INTERPRETATION AND HELD THAT AN ORGANIZATION OPERATING A PUBLIC BEACH QUALIFIED FOR CHARITABLE EXEMPTION. THE COURT HELD THAT THE WORD "CHARITABLE" WAS NOT LIMITED SOLELY TO RELIEF OF THE POOR BUT INCLUDED ORGANIZATION THAT PROMOTED THE GENERAL SOCIAL WELFARE SUCH AS PROMOTION OF HEALTH, LESSENING THE HARDNESS OF GOVERNMENT, EASING NEIGHBORHOOD TENSIONS, COMBATTING JUVENILE DELINQUENCIES, ETC. THROUGHOUT THE EARLY 1950'S, THE SERVICE WAS FACED WITH THE NECESSITY TO CATEGORIZE A RAPIDLY INCREASING NUMBER OF ORGANIZATIONS

THAT WERE FORMED TO DEAL WITH A VARIRTY OF SOCIAL, ECONOMIC, AND GOVERNMENTAL ISSUES. THE PROBLEM, OF COURSE, WAS THAT MOST OF THOSE ORGANIZATIONS, ALTHOUGH SEEMINGLY QUITE BENEFICIAL TO SOCIETY, DID NOT FIT WITHIN ANY SPECIFIC CATEGORY SET FORTH IN THE STATUTE.

THE FIRST STEPS TOWARDS THE SERVICE'S CURRENT INTERPRETATION OF SECTION 501(c)(3) WERE TAKEN IN 1959. THE INABILITY OF THE SERVICE TO DEAL WITH THE PROBLEMS OF CLASSIFYING THIS NEW GENERATION OF SOCIAL INSTITUTIONS REQUIRED A RETHINKING OF THE NARROWER INTERPRETATIONS PLACED ON THE CODE SECTION. THE RESULT OF THIS RECONSIDERATION LED TO AN EXPANSION OF THE INTERPRETATION OF THE TERM "CHARITABLE". IN EFFECT, THE SERVICE ADOPTED IN THE INCOME TAX AREA THE INTERPRETATION THAT IT HAD LONG FOLLOWED IN THE ESTATE TAX AREA. THIS CHANGE WAS MADE BY ADOPTING THE REGULATIONS AS THEY EXIST TODAY. THESE REGULATIONS MAKE IT CLEAR THAT THE TERM "CHARITABLE" IS USED IN SECTION 501(c)(3) "IN ITS GENERALLY ACCEPTED LEGAL SENSE". THUS, CHARITY IS FAR MORE THAN THE RELIEF OF POVERTY AND INCLUDES, IN ADDITION TO SOME OF THE OTHER PURPOSES SPECIFICALLY IDENTIFIED IN THE STATUTE, MANY OTHERS THAT HAVE BEEN RECOGNIZED BY THE COURTS AS LEGALLY CHARITABLE.

THE CHANGE IN THE REGULATIONS IN 1959 HAD LITTLE, IF ANYTHING TO DO WITH THE SCHOOLS AREA. IN FACT, THERE WERE PROBABLY FEW, IF ANY, IN THE IRS OR TREASURY THAT HAD ANY IDEA THAT THE NEWLY ADOPTED INTERPRETATION OF SECTION 501(c)(3) WOULD HAVE ANY REAL BEARING ON THE EXEMPTION OF SCHOOLS. WHAT WAS FORESEEN WAS THAT THE NEW INTERPRETATION RECOGNIZED

THAT THERE WAS A BASIS FOR THE EXEMPTION OF MANY TYPES OF CHARITIES NOT LITERALLY DESCRIBED IN THE STATUTE. THUS, FOR EXAMPLE, UNDER THE 1959 REGULATIONS EXEMPTION WAS MADE AVAILABLE MORE GENERALLY TO HOSPITALS, OLD AGE HOMES, AND ENVIRONMENTAL ORGANIZATIONS. EXEMPTIONS ALSO WERE GRANTED TO ENVIRONMENTAL GROUPS, PUBLIC INTEREST LAW FIRMS AND HISTORIC PRESERVATION SOCIETIES.

IN RETROSPECT, IT MIGHT HAVE BEEN BETTER IF THE SERVICE AND TREASURY HAD AT THAT TIME REFERRED THIS ENTIRE ISSUE TO CONGRESS INSTEAD OF DEVELOPING A SOLUTION BY CHANGING THE REGULATIONS. MANY PROBLEMS WOULD HAVE BEEN AVOIDED HAD THE SERVICE OBTAINED FROM CONGRESS A PRECISE STATEMENT WITH RESPECT TO THE TYPES OF ORGANIZATIONS TO BE EXEMPTED AND A CLEAR STATEMENT OF THE STANDARDS TO BE OBSERVED IN APPLYING THE EXEMPTION RULES. AT THE TIME, HOWEVER, CHANGING THE REGULATIONS UNDOUBTEDLY APPEARED TO OFFER A SOLUTION TO THE PROBLEM. THESE AMENDMENTS BROUGHT ADMINISTRATION IN THE INCOME TAX AREA IN LINE WITH THAT IN THE ESTATE TAX AREA AND PROVIDED A FRAMEWORK FOR ANSWERING THE MANY DIFFICULT QUESTIONS FACING THE SERVICE. MOREOVER, THE REGULATIONS AND SUBSEQUENT RULINGS WERE WIDELY ACCEPTED AS A PRAGMATIC WAY FOR THE SERVICE TO PROCEED IN THE EXEMPTION AREA. IN OTHER WORDS A REASONABLE WAY WAS FOUND TO ADOPT A LEGAL THEORY UPON WHICH TO BASE MANY DECISIONS WHICH WERE FOR THE MOST PART UNIVERSALLY ACCEPTED AS DESIRABLE.

IT WAS NOT UNTIL THE 1960'S, WHEN THE SERVICE FIRST FACED THE PROBLEM OF SEGREGATED SCHOOLS, THAT THERE WAS ANY

SIGNIFICANT CRITICISM OF ITS BROADENED INTERPRETATION OF SECTION 501(c)(3). HOWEVER, ONCE AGAIN AN EXPANDED DEFINITION WAS NECESSARY. TO DEAL WITH THIS PROBLEM IT BECAME NECESSARY TO READ THE CODE SECTION AS APPLYING THE CHARITABLE CONCEPT TO OTHER EXEMPT PURPOSES SPECIFICALLY SET FORTH IN THE STATUTE. THESE WERE HARD CASES, AND HERE FOR THE FIRST TIME THE APPLICATION OF THE PRINCIPLES OF THE COMMON LAW OF CHARITY WERE EMPLOYED IN A RESTRICTIVE WAY RATHER THAN IN A LIBERALIZING FASHION.

THE DILEMMA FACING THE SERVICE AND THE EMOTIONAL LEVEL OF THE DEBATE WAS EXACERBATED SIGNIFICANTLY IN 1978, WHEN THE SERVICE ANNOUNCED SUBSTANTIALLY REVISED PROPOSED PROCEDURES. THERE WAS A HUGE OUTCRY, AND THOUSANDS OF COMMUNICATIONS RECEIVED BY THE SERVICE WERE STRONGLY OPPOSED TO THE PROCEDURES. PROBABLY NO OTHER EVENT HAS HAD SUCH A MATERIAL EFFECT ON THIS WHOLE PROBLEM AS THESE PROPOSED RULES WHICH WERE WIDELY PERCEIVED AS AN UNAUTHORIZED, AGGRESSIVE, "GUILTY UNTIL PROVEN INNOCENT" INTRUSION BY THE SERVICE IN THIS AREA.

AS A FOLLOW-UP DEVELOPMENT, CONGRESS PASSED THE DORNAN/ASHBROOK APPROPRIATIONS RIDERS. THESE RIDERS MADE IT CLEAR THAT THE SERVICE COULD NOT IMPLEMENT ITS PROPOSED PROCEDURES, BUT DID NOT RESOLVE THE QUESTION OF HOW THE EXEMPTION STATUTE SHOULD BE INTERPRETED. THE MANY DIFFICULT ISSUES WERE THUS LEFT TO THE ADMINISTRATION AND THE COURTS TO RESOLVE.

WHEN I SAID AT THE BEGINNING OF MY REMARKS THAT I WANTED TO PUT THE SCHOOLS PROBLEM IN CONTEXT, I MEANT THAT IT SHOULD BE SEEN NOT AS AN ISOLATED ISSUE BUT AS PART OF

THE CONTINUING EVOLUTION OF DEALING WITH A LONG LIST OF PROBLEMS IN THE EXEMPTION AREA. MOST OF THE CURRENT, NON-TECHNICAL VIEWS ON THE SCHOOLS PROBLEM ARE NOT THE RESULT OF INFORMED OPINIONS ON HOW THE EXEMPTION STATUTE SHOULD BE CONSTRUED, BUT THE RESULT OF STRONGLY HELD SOCIAL AND MORAL CONVICTIONS. THE FACT REMAINS, HOWEVER, THAT FOR THE IRS THE AUTHORITY TO PROCEED DEPENDS ON PROPER INTERPRETATION OF THE STATUTE. IT IS THE STATUTE THAT THE IRS MUST LOOK TO IN DETERMINING WHAT, IF ANY, ROLE IT HAS IN RESOLVING THE SCHOOLS PROBLEM.

LET ME SUMMARIZE MY FEELINGS THIS WAY: WE HAVE HAD ESSENTIALLY THE SAME EXEMPTION STATUTE FOR OVER 80 YEARS WITH RELATIVELY LITTLE GUIDANCE FROM CONGRESS ON HOW IT SHOULD BE APPLIED. ON THE BASIS OF THIS STATUTE AND THE HISTORICAL INTERPRETATION, WHICH I HAVE OUTLINED, WE HAVE EXEMPTED UNDER THE "CHARITABLE" CLASSIFICATION SOME 300,000 ORGANIZATIONS OF A NEARLY LIMITLESS VARIETY. MANY OF THESE COULD NOT HAVE BEEN SO IDENTIFIED ON THE BASIS OF THE NARROW INTERPRETATION OF THE STATUTE WHICH WAS APPLIED PRIOR TO 1959. WE HAVE ENCOUNTERED MANY INTERPRETIVE DIFFICULTIES AND WE ARE CERTAIN TO ENCOUNTER MORE IN THE FUTURE. THERE CERTAINLY WILL BE NEW TYPES OF ORGANIZATIONS SERVING THE EVOLVING NEEDS OF SOCIETY AND FOR WHICH THERE WILL BE NO PRECEDENT IN THE EXEMPTION AREA. SIMILARLY, THERE WILL BE GROUPS WITH PURPOSES TOTALLY REPUGNANT TO LAW AND PUBLIC POLICY SEEKING HAVEN IN THE EXEMPTION STATUTE AND THE DILEMMA WILL CONTINUE. BUT THIS DILEMMA NEITHER BEGAN WITH, NOR WILL IT END WITH, THE SEGREGATED SCHOOLS ISSUE.

THE PROBLEM HAS, HOWEVER, CALLED INTO SERIOUS QUESTION THE SERVICE'S LEGAL AUTHORITY FOR EXPANDING THE INTERPRETATION OF THE CODE IN THE FASHION I HAVE DESCRIBED BECAUSE OF THE MANY CONCERNS EXPRESSED NOT ONLY IN THE AREA OF RACE DISCRIMINATION IN EDUCATIONAL INSTITUTIONS BUT IN OTHER POTENTIAL PROBLEM AREAS. THIS ADMINISTRATION, FOLLOWING A SEARCHING REVIEW OF THE LEGAL BASIS FOR SERVICE ACTION, CONCLUDED THAT THE SERVICE IS WITHOUT THE AUTHORITY TO INTERPRET SECTION 501(c)(3) TO DENY EXEMPTION TO PRIVATE SCHOOLS ON THE BASIS OF RACIAL DISCRIMINATION. ACCORDINGLY, IT HAS SOUGHT TO DEAL IMMEDIATELY AND DIRECTLY WITH THIS PARTICULAR ISSUE THROUGH ITS PROPOSED LEGISLATIVE ENACTMENT. WE WELCOME EXPLICIT CONGRESSIONAL GUIDANCE AND SANCTION IN THIS AREA. WE ALL RECOGNIZE THAT THIS IS NOT A TOTAL SOLUTION TO THE ENTIRE PROBLEM BUT IT DOES DEAL IMMEDIATELY WITH A PROBLEM WHICH HAS SEVERE AND GRAVE CONSEQUENCES.

MR. CHAIRMAN, THIS ENDS MY STATEMENT. I WILL BE HAPPY TO ANSWER ANY QUESTIONS FROM YOU OR ANY MEMBER OF THE COMMITTEE.

STATEMENT OF
ROSCOE L. EGGER, JR.
COMMISSIONER
OF INTERNAL REVENUE
BEFORE THE
HOUSE COMMITTEE ON WAYS AND MEANS
FEBRUARY 4, 1982

I appreciate the opportunity to appear today to discuss the Service's administration of the law with respect to tax exemption for racially discriminatory private schools and deductibility of charitable contributions to them. Accompanying me is Mr. Kenneth W. Gideon, IRS Chief Counsel.

Service involvement in this area began after the Supreme Court decisions in *Brown v. Board of Education* and *Bolling v. Sharpe*[1] holding racial discrimination in public education to be unconstitutional. After these decisions, a number of segregated private schools were established with tuition and textbook assistance from state and local governments. Federal courts in the 1960s ruled that government aid to these racially discriminatory private schools violated the equal protection clause of the Constitution.[2]

[1] *Brown v. Board of Education*, 347 U.S. 483 (1954); *Bolling v. Sharpe*, 347 U.S. 497 (1954)

[2] *Griffin v. Board of Supervisors of Prince Edward County*, 379 F. 2nd 48 (4th Cir. 1964); *Pointdexter v. Louisiana Finance Assistant Commission*, 273 F. Supp. 833 (ED La 1967), affd. per curiam, 389 U.S. 571 (1968); *Coffey and United States v. State Education Finance Assistance Commission*, 296 F. Supp. 199 (SD Miss 1969)

These court rulings led to deliberations by the Service, the Treasury Department, and the Department of Justice as to whether private segregated schools would be entitled to tax exemption and whether contributions to these schools would be deductible. As an interim measure while assessing the effect of court decisions, the Service in 1965 suspended issuing rulings to the increasing number of private schools seeking exemption from Federal income tax. After considerable review, the Service announced in 1967 that tax exemption would be denied and contributions would not be deductible to racially segregated private schools whose operation with State and local government aid was unconstitutional or in violation of the laws of the United States.[3] However, racially discriminatory schools that operated without state support or aid would continue to be exempt from Federal income tax.

In 1969, the Service was sued by the parents of black children in the State of Mississippi. Their argument was that the availability of tax exemption and deductible contributions to a private racially discriminatory school amounted to unconstitutional government action. They asserted that these schools failed to qualify for exemption because their practices violated clear Federal public policy against racial discrimination. A three-judge federal court in the District of Columbia on January 12, 1970, ordered the Service in a preliminary injunction not to recognize tax exempt status or allow charitable contributions to racially discriminatory private schools in Mississippi.[4] On June 26, 1970, the court entered a supplemental order requiring the Service to suspend advance assurance of deductibility of contributions to segregated schools in Mississippi.[5]

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[3] IRS News Release dated August 2, 1967

In July 1970, the Service announced that it could no longer legally justify allowing tax exemptions to private schools that racially discriminate nor treat contributions to such schools as tax deductible.[6] To qualify for such benefits, all private schools were required to adopt and publicly announce a policy of racial non-discrimination. The then Commissioner of the Internal Revenue Service indicated that the legal aspects of this issue had been discussed and studied in great depth within both the Treasury Department and the Department of Justice and that both departments were in accord with the position.[7] The White House also issued a press release endorsing this position.

[4] *Green v. Kennedy*, 309 F. Supp. 1127 (D.D.C. 1970) [preliminary injunction], appeal dismissed sub nom. *Cannon v. Green*, 398 U.S. 956 (1970), appeal from subsequent orders dismissed sub nom. *Coit v. Green*, 400 U.S. 986 (1971).

[5] *Green v. Kennedy*, 26 AFTR 2d 70-5416 (D.D.C.) [revised preliminary injunction]; *Green v. Connally*, 330 F. Supp. 1150 (D.D.C.) [permanent injunction], aff'd sub nom. *Coit v. Green*, 404 U.S. 997 (1971).

[6] IRS News Releases July 10 and 19, 1970

[7] Testimony Before the Select Committee for Equal Educational Opportunity on August 12, 1970

Concluding that racially discriminatory private schools were not eligible for tax benefits available to charities, the three-judge court in Green entered the permanent injunction in June of 1971. A challenge on the merits of the order was made by parents supporting schools with exclusively white enrollments. On an appeal by the white parents, the United States Supreme Court affirmed per curiam the lower court.[8]

In 1970, the Service examined private schools in Mississippi and, applying similar procedures surveyed 15,000 schools nationwide. These actions resulted in revocation of the tax exempt status of over 100 schools that would not adopt and publicize a racially nondiscriminatory admissions policy. Included among the schools that refused to adopt such a policy was Bob Jones University. It should be noted that the Service gave every private school with a racially discriminatory policy an opportunity to change that policy before it took action.

Since 1970, the Service has taken a number of additional steps to implement the racial nondiscrimination requirement. In 1971, IRS published a ruling explaining the nondiscriminatory requirement,[9] and, in 1972, the Service published a procedure that established guidelines for publicizing a school's racially nondiscriminatory policy.[10]

[8] Coit v. Green, 404 U.S. 997 (1971). The Supreme Court in Bob Jones University v. Simon, 416 U.S. 725, 740, fn. 11, stated that the Green affirmance "lacks the precedential weight of a case involving a truly adversary controversy."

[9] Rev. Rul. 71-447, 1971-2 C.B. 230

[10] Rev. Proc. 72-54, 1972-C.B. 834

Following its initial nationwide survey of tax exempt schools, the Service during 1973 through 1975 had an examination coverage which ranged from 2% to 4%. During this period, an examination of Goldsboro Christian Schools was conducted because of its claim for refund of certain employment taxes. This examination resulted in the litigation which became the companion case to Bob Jones.

Experience with these examinations indicated to the Service that specific guidelines were needed to ensure uniform enforcement nationwide and the Service proceeded to develop these. The United States Commission on Civil Rights; the Civil Rights Division of the Justice Department, and several members of Congress also expressed the need for specific examination guidelines.

In December 1975, Revenue Procedure 75-50 was published[11] clarifying IRS guidelines for tax exempt schools and establishing recordkeeping requirements. Recognizing the sensitivity associated with this particular issue, the Service took the unusual step of publishing the procedure in proposed form to afford the public, educational institutions, and other interested parties the opportunity to comment. The final version of the procedure required all tax exempt private schools to adopt formally a racially nondiscriminatory policy, to refer to the policy in all brochures and catalogues, and generally to publish notice of this policy annually in a newspaper or by use of the broadcast media. Detailed

[11] Rev. Proc. 75-50, 1975-2 C.B. 587

examination guidelines were also issued during this period.

Also in 1975, the Service published a revenue ruling clarifying and explaining its position that organizations, including churches, which establish private schools with a policy of refusing to accept certain racial and ethnic groups will not be recognized as tax-exempt charities under section 501(c)(3) of the Code.[12] Revenue Procedure 75-50, however, made it clear that a school which enrolls students based on religious affiliation will not be deemed to have a discriminatory policy if the religion is open to all on a racially nondiscriminatory basis.

In 1976, the plaintiffs in the *Green* case reopened that suit, asserting that the Service was not complying with the court's continuing injunction that racially discriminatory Missisippi private schools be denied tax exemption and requesting further injunctive relief.[13] In addition, a companion suit was filed, now entitled *Wright v. Regan*, asserting that the Service's enforcement of the nondiscrimination requirement on a nationwide basis was ineffective.[14]

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[12] Rev. Rul. 75-231, 1975-1 C.B. 158. See also TIR 1379 (5/27/75) stating that the de minimis rule will be followed in administering Rev. Rul. 75-231.

[13] *Green v. Simon*, Civ. no. 1355-69(D.D.C)

[14] *Wright v. Simon*, Civ. no. 76-1426 (D.D.C.). In *Wright v. Blumenthal*, 480 F. Supp. 790 (D.D.C. 1979), the Court dismissed plaintiffs' complaint primarily for lack of standing. The decision was reversed in *Wright v. Regan*, 81-2 U.S.T.C. ¶9504 (D.C. Cir. 1980). The Solicitor General has filed a petition for certiorari with the Supreme Court to review this decision.

Also in 1976 the Service undertook to examine 10% of all schools having individual exemption letters under Section 501(c)(3). This coverage continued until July 7, 1978, when elementary and secondary school examinations were suspended because of the reexamination of factors to be used in determining whether a school has a racially nondiscriminatory admissions policy.

As the Internal Revenue Service through the then Commissioner testified before Congressional Committees in 1979, the reopening of *Green* and the filing of *Wright* had caused the Service to examine the effectiveness of its efforts to ensure that only racially nondiscriminatory schools should be recognized as tax exempt.[15] Of special concern to the Service at that time was the fact that some schools that had been adjudged discriminatory by the courts continued to be tax exempt.[16] Accordingly, on August 22, 1978, the Service, as it had in 1975, published for public comment a proposed revenue procedure[17]. It was intended to serve as a guide for IRS personnel and the public for use in determining whether a private school actually operated on a racially nondiscriminatory basis.

[15] Proposed IRS Revenue Procedure Affecting Tax Exemption of Private Schools: Hearings Before the Subcommittee on Oversight of the House Committee on Ways and Means, 96th Cong. 1st Sess. 479 (1979).

[16] *Norwood v. Harrison* 382 F. Supp. 921, 929 (N.D. Miss. 1974), on remand from Supreme Court, 413 U.S. 455 (1973); *Brumfield v. Dodd*, 425 F. Supp. 528 (E.D. La. 1976)

[17] Proposed Revenue Procedure 73 Fed. Reg. 37,296 (1978)

THE PROPOSED REVENUE PROCEDURE WOULD HAVE REQUIRED A PRIVATE SCHOOL THAT HAD BEEN ADJUDGED DISCRIMINATORY OR ONE FOUNDED OR EXPANDED AT THE TIME OF PUBLIC SCHOOL DESEGREGATION TO MAKE A STRONG SHOWING OF NONDISCRIMINATION. THE PROPOSED PROCEDURE WAS THE SUBJECT OF OVER 150,000 LETTERS FROM THE PUBLIC, AND IN DECEMBER 1978, FOUR DAYS OF PUBLIC HEARINGS WERE HELD. IN FEBRUARY 1979, A REVISED PROPOSED PROCEDURE[18] WAS PUBLISHED FOR PUBLIC COMMENT. IT PROVIDED GREATER FLEXIBILITY FOR A SCHOOL TO SHOW IT IS OPERATING ON A RACIALLY NONDISCRIMINATING BASIS.

AS A RESULT OF THE STRONG PUBLIC REACTION TO THE PUBLICATION OF THE PROPOSED PROCEDURES, HEARINGS WERE HELD ON APRIL 17, 1979, BEFORE THE SENATE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT OF THE FINANCE COMMITTEE, AND ON JULY 26, 1979, BEFORE THE FULL SENATE FINANCE COMMITTEE. THE SERVICE ALSO TESTIFIED BEFORE THE SUBCOMMITTEE ON OVERSIGHT OF THE COMMITTEE ON WAYS AND MEANS ON FEBRUARY 20 AND MARCH 23, 1979.

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[18] ANNOUNCEMENT 79-38, 1979-11 IRM 33

On September 29, 1979, amendments to the Treasury Appropriations Bills, by Representatives Dornan and Ashbrook precluded the Service from adopting the proposed revenue procedures and from formulating guidelines, regulations, standards or measures which would cause the loss of tax exempt status to private, religious, or church-operated schools under Section 501(c)(3) of the Code unless in effect prior to August 22, 1978. These restrictions have been carried over to subsequent appropriations bills. The 1982 continuing resolutions adopted these restrictions and further restricted the Service from implementing court orders.

On May 1, 1980, a limited nationwide examination program was instituted. In general, examinations were to be conducted only in instances where there was an indication of racial discrimination or where complaints of racial discrimination were made. This examination program continues at this time.

In May and June of 1980, the District Court in *Green* entered revised injunctive orders against the Service and Treasury.[19] These orders required the Service to review the tax exempt status of Mississippi private schools under standards similar to those proposed by the Service in 1979. For example, a private school founded at the time of public school desegregation was required as a condition for continued exemption to show that it had engaged in objective acts, such as minority recruitment, to overcome an inference that it discriminated, notwithstanding a published policy of nondiscrimination. On July 7, 1980, the government announced that it would not appeal the decision.

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[19] *Green v. Miller*, 45 AFTR 2d 80-1566 (D.D.C. 1980)

As a result of complying with the revised injunctive orders, the Service in August, 1981 revoked the exempt status of five organizations operating private schools in Mississippi. These organizations are currently challenging the revocations before the U.S. Tax Court.

Some Mississippi churches refused to provide the Service with information about schools operated by them, and at our urging the Justice Department requested and was granted a stay of the 1980 injunctive orders in *Green*, pending resolution by the court of legal objections raised by an intervening church.

Just prior to my becoming Commissioner, the Courts of Appeals had sustained IRS revocations of tax exempt status in the cases of Bob Jones University, Goldsboro Christian Schools, and Prince Edward Educational Foundation based upon the racially discriminatory policies of those institutions.[20] It should be noted that the Court of Appeals decisions in The *Bob Jones* and *Goldsboro* cases were not unanimous, and that in *Bob Jones* in particular there was a strong dissent based on the very concerns that led to the Administration action. When I became Commissioner, the Service was faced with the dilemma of complying with both the Dornan and Ashbrook riders and the *Green* injunction. These Congressional

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[20] *Bob Jones University v. United States*, 468 F. Supp. 890 (D.S.C. 1978), revd. 639 F. 2d 147 (4th Cir. 1980); *Goldsboro Christian Schools, Inc. v. United States*, 436 F. Supp. 1314 (E.D.N.C. 1977), affd. by unpublished order; *Prince Edward School Foundation v. United States*, 478 F. Supp. 107 (D.D.C. 1979), affd. by unpublished order No. 79-1622 (D.C. Cir. June 30, 1980), cert. denied, 750 U.S. 944 (1981).

RESTRICTIONS HAVE PREVENTED US FROM DEVELOPING REASONABLE RULES RESPONSIVE TO CRITICISMS FROM CONGRESS AND THE PUBLIC WITH REGARD TO THE STANDARDS AND CRITERIA WHICH SHOULD BE FOLLOWED IN DETERMINING WHETHER A SCHOOL IN FACT HAS A RACIALLY DISCRIMINATORY POLICY.

AS A TAX ADMINISTRATOR, I FOUND MYSELF IN THE UNCOMFORTABLE POSITION OF BEING ORDERED BY A COURT TO APPLY ONE SET OF RULES TO MISSISSIPPI SCHOOLS WHILE AT THE SAME TIME, I WAS BEING PREVENTED BY CONGRESS FROM DEVELOPING UNIFORM RULES TO APPLY ELSEWHERE. THIS SITUATION WAS FURTHER AGGRAVATED BY THE PASSAGE OF THE CONTINUING BUDGET RESOLUTION FOR FISCAL YEAR 1982 WHICH CONTAINS A REVISED ASHBROOK AMENDMENT PROHIBITING US FROM COMPLYING WITH COURT ORDERS. AS A RESULT OF THIS LATEST CHANGE, SECRETARY REGAN ON OCTOBER 1, 1981, WROTE TO ATTORNEY GENERAL SMITH FOR A FORMAL OPINION CONCERNING THE LEGALITY OF OUR CONTINUED COMPLIANCE WITH THE GREEN INJUNCTIVE ORDERS.

AS PART OF MY EVALUATION OF HOW THE SERVICE OUGHT TO HANDLE GREEN AND OTHER PRIVATE SCHOOL LITIGATION, I CONCLUDED THAT IMPORTANT CONSTITUTIONAL ISSUES WERE BEING RAISED, PARTICULARLY BY THE CHURCH-RELATED SCHOOLS, AND THAT THEY SHOULD HAVE AN OPPORTUNITY TO HAVE THEIR CLAIMS ADJUDICATED BY THE COURTS. WE CONVEYED OUR VIEWS TO THE DEPARTMENT OF JUSTICE, AND, IN FACT, THE COURT ULTIMATELY ALLOWED INTERVENTION BY A CLASS OF

CHURCH-RELATED SCHOOLS IN GREEN. SIMILARLY, I FELT THAT THE BOB JONES AND GOLDSBORO CASES RAISED SIGNIFICANT CONSTITUTIONAL QUESTIONS WHICH NEEDED TO BE DECIDED BY THE COURTS, AND WE PREVAILED UPON THE SOLICITOR GENERAL'S OFFICE TO ACQUIESCE IN BOB JONES' PETITIONS FOR CERTIORARI, EVEN THOUGH A MAJORITY OF THE APPEALS COURT HAD SUSTAINED THE SERVICE POSITIONS.

THE LEGISLATION PROPOSED BY THIS ADMINISTRATION TO ADDRESS THE ISSUE WE ARE DISCUSSING WILL PROVIDE A NATIONAL STANDARD FOR THE DENIAL OF TAX EXEMPTION TO RACIALLY DISCRIMINATORY SCHOOLS. IT IS NOT INTENDED TO AND DOES NOT RESOLVE THE DIFFICULT DEFINITIONAL PROBLEMS INHERENT IN THIS AREA OF THE CODE, SUCH AS DEFINING BROAD GENERAL TERMS SUCH AS "CHARITABLE" AND "EDUCATIONAL."

BEFORE CLOSING, I WAS ALSO ASKED TO COMMENT ON THE PLANS OF THE IRS WITH REGARD TO EXISTING REVENUE RULINGS AND PROCEDURES DEALING WITH RACIAL DISCRIMINATION AND SCHOOLS. CONSISTENT WITH THE GOVERNMENT'S FILING IN THE SUPREME COURT AND MY INSTRUCTIONS FROM THE TREASURY DEPARTMENT, IT IS MY INTENTION TO REVOKE THOSE REVENUE RULINGS AND PROCEDURES AND IT IS OUR INTENTION TO RESTORE TAX EXEMPT STATUS TO THE BOB JONES AND GOLDSBORO INSTITUTIONS PENDING ENACTMENT OF THE ADMINISTRATION'S PROPOSED LEGISLATION.

FINALLY, I WANT TO EMPHASIZE THAT THE ROLE OF THE SERVICE IS AND HAS ONLY BEEN TO ADMINISTER THE EXISTING TAX LAWS. WE LOOK TO THE STATUTES, THEIR LEGISLATIVE HISTORIES, AND THEIR JUDICIAL INTERPRETATION. OUR RESPONSIBILITY IS CONFINED TO ENFORCING AND INTERPRETING WHAT IS IN THE INTERNAL REVENUE CODE.

I WILL BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE CONCERNING THE SERVICE'S ADMINISTRATION OF THIS AREA SINCE I TOOK OVER DIRECTION OF THE INTERNAL REVENUE SERVICE.

Attachment 9

In Mr. Hansen's book - How the IRS Seizes Your Dollars and How to Fight Back, Chapter 1, "Acts of Terror," he describes the events which led to the death of Donald McGrath. Mr. McGrath refused to pay his Airway Use Tax, plus penalty and interest, in the amount of $39.65. To satisfy the liability a Notice of Levy was served upon the First National Bank of East Grand Forks, Minnesota in accordance with the authority given the Service by Section 6331 of the Internal Revenue Code. Mr. McGrath filed suit against the bank for honoring the levy (which was thrown out of court) and apparently refused to repay a loan from the bank. Mr. McGrath was shot when local county Sheriff's deputies attempted to enforce an order to seize his combine which was security for the loan on which he had defaulted. The seizure attempt to foreclose on the defaulted note was not a collection action by or for the Service.

Attachment 11

In Congressman Hansen's book - How the IRS Seizes Your Dollars and How to Fight Back, Chapter 2, "Education at Gunpoint" and Chapter 11, "Are You on Their Hit List", he makes a number of allegations concerning abuses by IRS. In general, these allegations deal with the collection of information on taxpayers, the maintenance of "hit lists", and the use of "door to door armed raids" in Fremont County, Idaho.

The primary statutory authority of the IRS is 26 U.S.C. 7801, which authorizes the Secretary of the Treasury to administer and enforce tax laws. The Secretary of the Treasury has delegated responsibility for the administration and enforcement of the tax laws to the Commissioner of the IRS by Treasury Order 150-37, dated March 17, 1955, as amended. The Commissioner in turn established the organizational entities within the Service and delegated authority to them to perform their respective activities.

To determine the extent of compliance and the causes of non-compliance, and to enforce tax laws, the IRS historically has gathered information from sources other than tax returns. The Commissioner in 1975, formulated and established the Service's current Policy Statement governing the collection of such information. It provides:

> Since compliance with Internal Revenue laws cannot be determined solely with reference to information on returns and documents filed with the Service, the Service will obtain information from outside sources. However, only information necessary for the enforcement and administration of the tax laws which the Service is authorized and directed to enforce will be sought. To safeguard taxpayer privacy, any information received by the Service, other than that described in this paragraph, will not be indexed or associated with the name or identifying symbol of a taxpayer. No disclosure of information will be made except as provided by law.

In keeping with these guidelines, the Service gathers directly tax related information from a variety of sources, including newspapers, concerning possible failure to comply with tax laws and/or information relating to the safety of IRS personnel. The Service does not maintain "spy files" or "hit lists" as described by Congressman Hansen, nor would the Service approve or condone such activities.

The Inspector General, Department of Treasury, at the request of the Department of Justice, has conducted a review of allegations made by Congressman George Hansen.

The review focused on IRS information gathering activities in four areas in whichthe Congressman's allegations suggested possible wrongdoing. The first was the gathering of information that is used to identify individuals who pose a potential threat to the physical safety of IRS employees. The second area involves information gathering projects conducted as part of the Service's "Illegal Tax Protester" program. The collection of information through projects within the Service's Returns Compliance Program (RCP) is the third area being reviewed and the fourth is the use of newspaper articles for compliance purposes.

The Inspector General's report concluded that the information gathering activities were within the Service's authority and that national policies were adequate to safeguard the rights of taxpayers. Congressman Hansen's allegations relating to "spy files" and the Fremont County project were not substantiated.

A report has been prepared by the Inspector General and was forwarded to the Department of Justice on July 9, 1982.

In Chapter 6, "Rigging Elections", Congressman Hansen states that the "IRS has never been thoroughly reviewed by any other agency of government or even by the Congress for that matter".

Currently, approximately 100 GAO auditors are assigned to review IRS operations. Their reports are issued to the IRS Commissioner to initiate corrective action on reported findings. Attached is a list of GAO reports issued from 1972 to 1981 impacting on tax administration matters.

Additionally, 43 oversight hearings by the House of Representatives and 10 by the Senate have been conducted since 1974 for the purpose of reviewing Service operations.

REPORTS ON TAX ADMINISTRATION MATTERS ISSUED DURING 1981

TITLE	DATE
IRS' Handling of Undelivered Income Tax Refund Checks (GGD-81-71)	4/10/81
Fictitious Tax Deposit Claims Plague IRS (GGD-81-[illegible])	4/28/81
Streamlining Legal Review of Criminal Tax Cases Would Strengthen Enforcement of Federal Tax Laws (GGD-81-25)	4/29/81
IRS Collection Activities in the Area of Organized Crime (GGD-81-74)	5/6/81
Observations Concerning the Internal Revenue Service's Management of Criminal Tax Cases (GGD-81-66)	5/12/81
IRS Can Reduce Processing Costs by Not Transcribing Cents Data from as Many Lines on Tax Returns (GGD-81-84)	6/19/81
Illegal Tax Protesters Threaten Tax System (GGD-81-83)	7/8/81
Bank Secrecy Act Reporting Requirements Have Not Yet Met Expectations, Suggesting Need for Amendment (GGD-81-80)	7/23/81
Potential Problem with Federal Tax System Postemployment Conflicts of Interest Can Be Prevented (GGD-81-87)	9/15/81
Delays in Receiving and Investing Taxes Are Reducing Railroad Retirement Program Interest Income (HRD-81-112)	9/24/81
IRS Could Better Protect U.S. Tax Interests in Determining the Income of Multinational Corporations (GGD-81-81)	9/30/81
Tax Revenues Lost and Beneficiaries Inadequately Protected When Private Pension Plans Terminate (HRD-81-117)	9/30/81
What IRS Can Do To Collect More Delinquent Taxes (GGD-82-4)	11/5/81
Stronger Federal Effort Needed In Fight Against Organized Crime (GGD-82-2)	12/7/81

REPORTS ON TAX ADMINISTRATION MATTERS ISSUED DURING 1980

TITLE	DATE
The Internal Revenue Service Could Make Better Use of Computer Audit Specialists (GGD-80-33)	1/24/80
IRS Efforts to Detect and Pursue Corporate Nonfilers (GGD-80-34)	2/11/80
Legislative Changes Needed to Eliminate the Requirement for a Declaration of Estimated Tax (GGD-80-61)	5/8/80
Disclosure and Summons Provisions of 1976 Tax Reform Act--An Analysis of Proposed Legislative Changes (GGD-80-76)	6/17/80
The Internal Revenue Service Can Make the Estimated Tax Forms and Instructions Easier to Understand and Use (GGD-80-89)	7/16/80
The Internal Revenue Service Needs to Reconsider Its Examination Strategy for Certain Partnership Returns (GGD-80-98)	9/5/80
New Formula Needed to Calculate Interest Rate on Unpaid Taxes (GGD-81-20)	10/16/80
IRS Can Expand and Improve Computer Processing of Information Returns (FGMSD-81-4)	10/20/80

REPORTS ON TAX ADMINISTRATION MATTERS ISSUED DURING 1979

TITLE	DATE
IRS Inspection Service Functions: Management Can Further Enhance Their Usefulness (GGD-78-91)	1/30/79
The Government Can Collect Many Delinquent Debts By Keeping Federal Tax Refunds As Offsets (FGMSD-79-19)	3/9/79
Disclosure and Summons Provisions of 1976 Tax Reform Act--Privacy Gains With Unknown Law Enforcement Effects (GGD-78-110)	3/12/79
Internal Revenue Service Efforts and Plans to Enforce the Employee Retirement Income Security Act (HRD-79-55)	3/28/79
Better Use of Currency and Foreign Account Reports By Treasury and IRS Needed for Law Enforcement Purposes (GGD-79-24)	4/6/79
Taxpayer Waiting Time at IRS' Walk-In Service Offices (GGD-79-53)	4/10/79
IRS Can Better Plan for and Control Its ADP Resources (GGD-79-48)	6/18/79
Who's Not Filing Income Tax Returns? IRS Needs Better Ways to Find Them and Collect Their Taxes (GGD-79-69)	7/11/79
IRS Can Improve Its Process for Deciding Which Corporate Returns to Audit (GGD-79-43)	8/3/79
IRS' Audits of Individual Taxpayers and Its Audit Quality Control System Need to Be Better (GGD-79-59)	8/15/79
How Taxpayer Satisfaction With IRS' Handling of Problem Inquiries Could Be Increased (GGD-79-74)	9/18/79
The Government of Guam's Administration of Its Income Tax Program (GGD-80-3)	10/3/79

REPORTS ON TAX ADMINISTRATION MATTERS ISSUED DURING 1978

TITLE	DATE
Allegations That IRS Harassed Mississippi Civil Rights Activists Unsupported (GGD-78-32)	1/27/78
IRS Can Improve Its Programs To Collect Taxes Withheld By Employers (GGD-78-14)	2/21/78
Impact On Trade Of Changes In Taxation of U.S. Citizens Employed Overseas (ID-78-13)	2/21/78
An Analysis Of IRS' Proposed Tax Administration System: Lessons For The Future (GGD-78-43)	3/1/78
Additional Comments On Privacy Implications Of IRS' Proposed Tax Administration System (GGD-78-46)	3/22/78
Better Management Needed In Exchanging Federal And State Tax Information (GGD-78-23)	5/22/78
Further Simplification Of The Tax Forms And Instructions Is Needed And Possible (GGD-78-74)	7/5/78
Revenue Estimates Under Various Methods of Taxing Americans Abroad (ID-78-52)	7/27/78
IRS Seizure Of Taxpayer Property: Effective But Not Uniformally Applied (GGD-78-42)	7/31/78
Additional IRS Actions Needed To Make Sure That Individuals Pay The Correct Social Security Tax (GGD-78-70)	8/15/78
Changes Needed In The Tax Laws Governing The Exclusion For Scholarships And Fellowships And The Deduction of Job Related Educational Expenses (GGD-78-72)	10/31/78

REPORTS ON TAX ADMINISTRATION MATTERS ISSUED DURING 1972 to 1977

TITLE	DATE
Administration of the Federal Highway Use Tax By the Internal Revenue Service, B-164497(3)	5/15/72
Appropriations Committees Not Advised on Reprogramming of Funds by the Internal Revenue Service, B-133373	5/1/73
Collection of Taxpayers' Delinquent Accounts By the Internal Revenue Service, B-137762	8/9/73
What Is Being Done About Individuals Who Fail To File a District Income Tax Return, B-118638	3/20/75
Mandatory Tax Withholding Recommended for Agricultural Employees, GGD-75-57, B-137762	3/26/75
Telephone Assistance to Taxpayers Can Be Improved, GGD-75-69, B-137762	6/10/75
Need to Revise Tax Deposit System on Alcohol and Tobacco Tax Returns, GGD-75-112, B-137762	8/1/75
Proposed Changes in Estate Taxation, GGD-76-1, B-137762	10/20/75
A Case For Providing Pay As You Go Privileges To Military Personnel For State Income Taxes, B-125036	11/19/75
No Apparent Need to Regulate Commercial Preparers of Income Tax Returns, GGD-76-8, B-137762	12/8/75
Occupational Taxes On the Alcohol Industry Should Be Repealed, GGD-75-111	1/16/76
Assistance to Taxpayers In Filing Federal Income Tax Returns, GGD-76-49, B-137762	4/1/76
Audit of Fiduciary Income Tax Returns By the Internal Revenue Service, GGD-76-33, B-137762	4/16/76
Use of Jeopardy and Termination Assessments By the Internal Revenue Service, GGD-76-14, B-137762	7/16/76
How the Internal Revenue Service Selects Individual Income Tax Returns for Audit, GGD-76-55, B-137762	11/5/76

TITLE	DATE
A Proposed Automated Tax Administration System for Internal Revenue Service -- An Evaluation of Costs and Benefits, LCD-76-116, B-115369	11/2[illegible]/76
Audit of Individual Income Tax Returns by the Internal Revenue Service, GGD-76-54, B-137762	12/2/76
Safeguarding Taxpayer Information -- An Evaluation of the Proposed Computerized Tax Administration System, LCD-76-115, B-115369	1/17/77
Actions Being Taken to Prevent Refundable Payments of Social Security and Federal Unemployment Taxes by Charitable Organizations, GGD-76-102, B-137762	2/1/77
Simplification of the Tax Form 1040A, GGD-77-26, B-137762	2/9/77
Extending the Tax Assessment Period: Why, How Often, and What Improvements Can Be Made, GGD-76-103, B-137762	3/28/77
Alcohol and Tobacco Excise Taxes: Laws and Audits Need Modernizing, GGD-76-91, B-137762	4/8/77
Nonfiling of Employment Tax Returns by Tax Exempt Organizations, GGD-77-48, B-137762	4/20/77
Use of 100-Percent Penalty Assessments by the Internal Revenue Service, GGD-77-49, B-137762	5/3/77
IRS' Security Program Requires Improvements to Protect Confidentiality of Income Tax Information, GGD-77-44, B-137762	7/11/77
Need to Amend the Internal Revenue Code to Extend Innocent Spouse Rule to Community Property Situations, GGD-77-56, B-137762	7/12/77
IRS Procedures for Providing Taxpayers With Refunds Not Initially Delivered by the Postal Service, FGMSD-77-9, B-137762	8/4/77
Need to Amend the Social Security Act to Make the Crediting of Self-Employment Income Conditional Upon Payment of the Self-Employment Income Tax, GGD-77-78, B-137762	8/8/77

TITLE	DATE
Letter to Representatives Moss and Rose about IRS' Proposed Computerized Tax Administration System, GGD-77-73, B-137762	8/16/77
Internal Revenue Service's Controls Over The Use of Confidential Informants: Recent Improvements Not Adequate, GGD-77-46, B-137762	9/1/77
Letter to Commissioner of Internal Revenue Addressing Unclear IRS Guidance and Potential Taxpayer Noncompliance Regarding Deductibility of Political Lobbying Expenses.	11/9/77
Repetitive IRS Audits of Taxpayers Are Justified, GGD-77-74, B-137762	11/18/77
Tax Treatment of Employees and Self-Employed Persons by the Internal Revenue Service: Problems and Solutions, GGD-77-88, B-137762	11/21/77
Inequities in the Federal Withholding Tax System, PAD-78-5, B-137762	12/2/77

Chairman RANGEL. The General Accounting Office, maybe we ought to have their testimony submitted for the record here.

Mr. Anderson, it is good to see you. We have the complete copy of your rather lengthy statement, and the full statement will appear in the record, and it will be helpful to us if you could summarize it.

STATEMENT OF WILLIAM J. ANDERSON, DIRECTOR, GENERAL GOVERNMENT DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY THOMAS VENEZIA, AUDIT MANAGER, CHICAGO REGIONAL OFFICE, AND THEODORE C. GEARHART, GROUP DIRECTOR, GENERAL GOVERNMENT DIVISION

Mr. ANDERSON. Thank you, Mr. Chairman. I came prepared to do so. I would like to start off introducing the gentlemen at the table. To my right, is Tom Venezia of the Chicago office, an expert in the taxpayer rights area.

To my left is Theodore Gearhart, Group Director of our Audit Staff. He is very knowledgable in the collections area and has some insights as to what IRS does regarding seizures.

I have about 5 minutes' worth here, sir, I would like to read. The testimony already presented obviously presents markedly different views of how IRS treats taxpayers. There has been considerable anecdotal comment of specific instances of where IRS has been alleged to have acted improperly in dealing with certain individuals.

We cannot confirm or deny the truthfulness of these specific allegations, but we can tell you that after looking closely at virtually all aspects of IRS's activities for a number of years, we are convinced that improper behavior by IRS personnel would be the exception rather than the rule.

Let me cite some of the areas we have looked at and in which we concluded that overall, IRS was fairly treating taxpayers. We looked at IRS seizures of taxpayers' property, IRS practices regarding the obtaining of waivers to extend the statutory audit period, the agency's use of jeopardy and termination assessments, how IRS selects individual income tax returns for audit, repetitive audits of taxpayers, allegations that IRS harassed civil rights activists in Mississippi, and taxpayer satisfaction with IRS handling of problem inquiries.

These are just a sampling of various audit assignments we have done which provide us with insights into the issue of how IRS treats taxpayers.

I agree with the thrust of Commissioner Egger's statement that overall, IRS has a set of policies and procedures that are geared to insure to the extent possible that taxpayers are treated fairly and equitably.

I also concur with his observation that isolated incidents of improper behavior on the part of IRS employees are probably unavoidable, given first, the number of employees, 40,000 or so, who come in contact with the public; and second, the large number of such contacts in any one year.

Some of these contacts are obviously more adversarial and confrontational than others, and even these are very large in number, about 1.9 million examination contacts, and more importantly, about 2.2 million collection contacts.

Mr. Chairman, to me it is important to keep in mind that, first, IRS bends over backward—I heard that phrase repeated just now, in its attempts to allow taxpayers to settle their tax liabilities before resorting to levies and seizures, and second, from the standpoint of one who has worked in the private sector for a number of years, I can assure you that there are a number of people out there who like to hang on to the money they have, and will not pay their just debts without considerable pressure being brought to bear.

Recognizing that there are a few people who resist paying taxes for reasons of conscience, I also submit that we have a large number of the other kind, those that just don't like to pay.

Indeed, the Federal Government's own experience under its various loan programs provides further evidence of how some folks will evade lawful obligations.

In summarizing this part of my testimony, let me observe that no collection agency will every win a popularity contest, especially the biggest such operation around. And let me make the point that IRS efforts to pursue those who do not voluntarily comply with the law are, in the last analysis, doing no more than assuring that the recalcitrant few pay up like the rest of us.

Having said that, I still have to emphasize, as did Commissioner Egger, that IRS needs to be continually vigilant to assure that all taxpayers are fairly, courteously, and equitably treated, and that IRS employees who violate the agency's guidance in this regard be identified and disciplined.

In my statement, Mr. Chairman, I deal with two other matters that you asked us to comment on. The first concerns the summons provisions of the 1976 Tax Reform Act. We expressed the view that they do indeed require amendment.

Second, you asked us what IRS was doing with respect to the tax preparer penalties contained in that legislation. We offer comments on that. We in fact are doing an audit, still in progress, in response to a request of this committee.

Let me stop right there, sir.

[The prepared statement follows:]

STATEMENT OF WILLIAM J. ANDERSON, DIRECTOR, GENERAL GOVERNMENT DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to assist the subcommittee in its inquiries concerning how IRS safeguards taxpayer rights and its inquiries about the effects of the summons and the return preparer penalty provisions of the 1976 Tax Reform Act. Much of our testimony is based on our past reviews of IRS activities. We have supplemented that data with a recent limited review of IRS' current policies, procedures, and controls for safeguarding taxpayer rights and dealing with related alleged violations.

Mr. Chairman, the main point I would like to make today is that while there may be instances where IRS has violated a taxpayer's rights, we have found no evidence to indicate that such instances are widespread or systemic. During fiscal year 1981, IRS had about 49 million personal contacts with taxpayers through its tax administration activities of providing assistance, examining returns, collecting delinquent taxes, locating taxpayers who do not file returns, investigating possible criminal violations, and hearing taxpayers' appeals. Given this number of personal contacts, the odds are that some taxpayers' treatment was less than correct. However, we cannot estimate the number of instances where this might have occurred. By the same token, there is no measure of overall taxpayer satisfaction with the treatment received from IRS.

To obtain such a measure there are at least two approaches which merit consideration. First, IRS could survey a statistical sample of taxpayers to determine their level of satisfaction with IRS' treatment. In this regard, there are three bills 1/ presently pending in the Congress which would require IRS to survey taxpayers to obtain their evaluation of the quality of IRS' service. Second, IRS could expand the statistical information system in its Problem Resolution Office to include all complaints dealing with alleged violations of taxpayer rights and the validity and resolution of those complaints. If the subcommittee, on the basis of these hearings, wishes to pursue this further, it could ask IRS to develop cost/benefit data on the feasibility of these approaches.

1/H.R. 464, H.R. 3540, and S. 850.

I would now like to discuss IRS' management control system for safeguarding taxpayer rights and, later, our observations on the two provisions of the 1976 Tax Reform Act.

SAFEGUARDING TAXPAYER RIGHTS

Collecting taxes is one of the most unpopular functions of the United States Government. This unpopularity is perpetuated by adverse news articles and uncomplimentary cartoons and jokes about the Internal Revenue Service. Add to this the frustration many of us recently faced as we gathered the information necessary to file our tax returns, and it is apparent why many have a negative image of IRS.

How much of this characterization is justified? It seems reasonable to assume that given the number of people involved in tax administration activities, some abuses of taxpayer rights will occur. Some instances of abuse have, in fact, been documented by both IRS and the media. However, during our many reviews, which have covered most of IRS' major programs and activities, we have not found any flagrant abuses of taxpayer rights, nor have we found any indication of systematic attempts to violate such rights. We attribute this in large part to the design of IRS' management control system for safeguarding taxpayer rights.

We recently made a limited review of that system and found that it appears to provide reasonable safeguards. The system includes policies, procedures, and controls designed to prevent, detect, and resolve abuses of taxpayer rights. We approached our evaluation task from a systems perspective rather than attempting to evaluate specifically how well each of those policies, procedures, and controls work. We determined that those aspects of the system designed to prevent abuses should, if properly implemented, minimize the number of instances where taxpayer rights are violated. From this same perspective, we also determined that those aspects of the system for detecting and resolving alleged and actual abuses of rights seem to be producing acceptable results. These observations are reassuring given the potential for violations of rights that could occur if IRS' management control system did not work.

An overview of the problem

IRS has awesome powers to carry out its tax collection responsibilities. To determine that taxpayers pay the correct amount of tax, IRS can require taxpayers to produce records to substantiate amounts shown on their tax returns. If they refuse, IRS can summon the records and/or recompute the taxes by disallowing unsupported claims. If taxpayers do not pay their assessed taxes within 10 days after notice and demand for payment, IRS can seize their property. These powers can affect the financial well-being and personal lives of almost every taxpayer.

To protect taxpayers from potential abuse of these powers, many laws have been enacted and procedures established giving taxpayers certain rights. Examples of such laws and procedures are those which give the taxpayer the right to appeal an IRS agent's proposal to a higher authority within IRS or to the courts; those which limit IRS' time to audit a tax return to 3 years after the return is filed; and those which require IRS to notify a taxpayer before levy or seizure of his or her property can take place. These laws and procedures are fairly specific and violations can be easily identified.

However, procedures to protect taxpayers from intimidation or harassment by overzealous IRS employees cannot be equally as specific and, as a result, incidents of such treatment cannot be as easily identified. Many times an IRS employee must rely on his or her individual judgment when dealing with a taxpayer. Whenever individual judgment is involved, there is a chance that the employee may act improperly and, contrary to policy, violate a taxpayer's rights.

It would be difficult, if not impossible, for any organization as large as IRS, with about 85,000 employees, to assure proper conduct by all its employees all the time. Therefore, it is extremely important that IRS have systems to detect and resolve such incidents when they do occur.

Prior GAO work

We have reviewed most of IRS' major programs and activities over the past several years. In most cases, our reviews of specific IRS procedures and practices have dealt in some way with IRS safeguards of taxpayer rights and have led to related improvements. I would now like to illustrate that point by briefly summarizing a few examples of our past work. The first three reports

I will discuss deal with IRS' collection activities, and the last four deal with IRS' examination activities.

In November 1981 we issued a report on how IRS deals with taxpayers who claim they cannot immediately fully pay their taxes. [1] Contrary to much of the publicity on IRS' alleged overzealous or inappropriate use of its strong collection powers, we found that the agency was not always taking enough action to collect delinquent taxes. Our review of collection actions taken against 1,500 taxpayers in four IRS districts showed that IRS was allowing taxpayers to delay or possibly avoid paying their taxes even though more stringent collection actions could and should have been taken. One of the reasons for IRS' lenient approach to collections was its concern about congressional and public criticism.

We pointed out in the report that IRS should obtain accurate and reliable taxpayer financial information to determine appropriate collection action. With this information, not only would IRS be able to collect more taxes, but it also would be in a better position to determine if and when it needed to use stronger collection tools such as levies and seizures. We believe that the more information IRS has about an individual taxpayer's financial condition, the more likely IRS will be to consider both the Government's and the taxpayer's interest in taking the proper collection action.

In July 1978, we issued another report specifically addressing IRS' procedures and practices for seizing and disposing of taxpayer property. 1/ We found that taxpayers were generally treated fairly, but we did note two problem areas where IRS has since taken action to improve the safeguarding of taxpayer rights. IRS needed to inform taxpayers of their appeal rights and to assure that fair prices are sought from the sale of seized property. During our review, IRS developed a publication discussing taxpayers' appeal rights and also developed procedures to routinely provide this publication to delinquent taxpayers. In addition, IRS revised its procedures for setting the minimum sale price and for allowing taxpayers to request an independent appraisal in order to establish the minimum acceptable price for seized property. This gives taxpayers better assurance that their equity in the property will be protected.

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[1] "What IRS Can Do To Collect More Delinquent Taxes" (GGD-82-4, Nov. 5, 1981).

Our July 1976 report on jeopardy and termination assessments noted that IRS could sell property seized from taxpayers owing certain taxes, such as employment and excise taxes, before the taxpayer had the opportunity to contest the tax liability in court. 2/ The Congress amended the Internal Revenue Code, through the Tax Reform Act of 1976, to allow time for taxpayers subject to these taxes to petition the district court before seized property is sold.

Other examples I would like to mention come from four of our reports relating to IRS' Examination Division. Our March

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1/"IRS Seizure Of Taxpayer Property: Effective, But Not Uniformly Applied" (GGD 78-42, July 31, 1978).

2/"Use of Jeopardy And Termination Assessments By The Internal Revenue Service" (GGD-76-14, July 16, 1976).

1977 report on IRS' use of waivers to extend the statutory 3-year period for audit and assessment 1/ noted that IRS was not routinely giving taxpayers the information needed for them to make informed decisions about signing such waivers. We estimated that waivers were used in only 2 percent of the 50,000 audits closed in three IRS districts during our sample period. However, when waivers were used taxpayers were not always made aware of the options available to them or of the consequences of these options. Since our review, IRS has developed a pamphlet explaining what rights and options taxpayers have if requested to sign a waiver of the statutory assessment period. Procedures call for this pamphlet to be provided to the taxpayer with the waiver request.

In November 1976 and again in November 1977 we reported on IRS' selection of individual income tax returns for audit based on our respective reviews of random samples of 1,500 audited taxpayers 2/ and 1,200 taxpayers whom IRS audited repetitively. 3/ We concluded that IRS' procedures for selecting returns for audit generally protect taxpayers against abuse.

Most tax returns are selected for audit on the basis of a mathematical formula. However, in some cases returns can be requested manually based on a relationship to another audited return

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1/"Extending the Tax Assessment Period: Why, How Often, and What Improvements Can Be Made" (GGD 76-108, Mar. 28, 1977).

2/"How The Internal Revenue Service Selects Individual Income Tax Returns For Audit" (GGD-76-55, Nov. 5, 1976).

3/"Repetitive IRS Audits Of Taxpayers Are Justified" (GGD 77-74, Nov. 18, 1977).

or an area involving a specific tax issue. In regard to the manual requests, we noted that IRS needed to ensure that its employees adequately justified obtaining tax returns. IRS has redefined some of the justifications for employee-selected tax returns and requires supervisory approval before the returns are audited.

At the request of this subcommittee, we also investigated allegations that IRS harassed 28 Mississippi civil rights activists through extensive audits of their tax returns. 1/ We found no evidence of any organized effort or intent by IRS to harass these taxpayers.

IRS policies and procedures for preventing abuses of taxpayer rights

IRS' management control system recognizes that the first step toward protecting taxpayer rights is to prevent abuse. To this end, the system includes operating policies and procedures which set the tone for the agency's dealings with taxpayers and which establish internal and external controls for each operating element to assure that policies and procedures are being followed.

I will now describe for you some examples of how IRS' management control system to prevent abuses of taxpayer rights is implemented in the Examination, Collection, and the Criminal Investigation Divisions.

1/"Allegations That IRS Harassed Mississippi Civil Rights Activists Unsupported" (GGD 78-32, Jan. 27, 1978).

Examination Division

In examining returns IRS attempts to correctly apply the tax laws enacted by the Congress, to determine the reasonable meaning of various code provisions, and to perform audits in a fair and impartial manner with neither a Government nor a taxpayer point of view. 1/ In this regard there are a number of laws and IRS procedures to help safeguard taxpayer rights. Some examples follow.

By law taxpayers are required to produce records to substantiate amounts shown on their tax returns whenever IRS requests them. 2/ However, taxpayers have the right to expect that the time and place of the examination be reasonable. 3/ When IRS decides to examine a particular return, IRS notifies the taxpayer in advance of the time and place of audit. Also, IRS notifies the taxpayer in writing or verbally of what items on the return are being examined and/or what records need to be furnished. Should the taxpayer be unable to keep the scheduled appointment, IRS will usually work out another date or place convenient to the taxpayer. 4/

1/Revenue Procedure 64-22, 1964-1 (Part 1) Cumulative Bulletin 689.

2/Internal Revenue Code sections 6001 and 7602.

3/Internal Revenue Code section 7605 and Internal Revenue Manual sections 4261.2(1) and 4252(3)(b).

4/Internal Revenue Manual sections 4253.4 (1)(a) and 4261.2(2) and IRS form letters 889(DO), 890(DO), and 904(DO).

Taxpayers also have the right to have someone accompany them or represent them at the examination. 1/ Should taxpayers elect to have representation, IRS requires that the taxpayers give their representatives power-of-attorney covering the particular return(s) under examination. This requirement exists to protect against unauthorized disclosures of tax return information. 2/

Sometimes, taxpayers do not show up for the examination and/or do not produce all the necessary records. According to IRS officials, after additional requests to appear and/or produce the records do not provide results, IRS has two alternatives. First, if an expense item is questioned, IRS may disallow unsubstantiated amounts and recompute the tax. Or, if IRS cannot determine the additional tax, it may summon the records. 3/ When a summons is issued to a taxpayer or a third party and it is not complied with, a district court must rule on the enforceability of the summons. 4/ I will briefly discuss the administrative summons procedures for records held by a third party later in this testimony.

In most instances, taxpayers turn over the records necessary to complete the audit without the need for a summons. Proposed tax liability changes resulting from the audit are discussed

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1/Title 5 U.S. Code, section 555(b) and Internal Revenue Manual section 4055.21(2).

2/Internal Revenue Manual sections 4055.21(1),(2), and (3).

3/Internal Revenue Manual section 4022.3(8).

4/Internal Revenue Code section 7604(b).

with the taxpayer. In these cases, IRS procedures require that the taxpayer be informed about why the change is being proposed and that he or she can appeal the examiner's findings within IRS or to the courts. 1/ If the taxpayer and IRS cannot agree, a formal notification of the proposed tax change is sent to the taxpayer. 2/ This notification informs the taxpayer that he or she has 90 days to appeal to the Tax Court for a review of IRS' findings. 3/

Collection Division

In collecting taxes IRS attempts to be fair and impartial. IRS has several policies, procedures and controls in place to accomplish this. I would like to focus on IRS' procedures for using levies and seizures because these tools can have the most substantial impact on the taxpayer.

Levy refers to IRS' seizure of a taxpayer's assets in the possession of third parties, such as bank accounts and wages. Seizure refers to IRS' seizure of a taxpayer's assets in his or her own possession such as an automobile, business equipment, or building. During fiscal year 1981, IRS, in disposing of 2.2 million delinquent accounts, used its levy power about 740,000 times and its seizure power about 9,800 times. As shown in the following table, IRS' use of levies and seizures has fluctuated

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1/Internal Revenue Manual section 424(12).1.

2/Internal Revenue Manual section 8(11)34.

3/Internal Revenue Code section 6213.

over the past few years to a low in fiscal year 1978. Currently, the number of seizures made by IRS is about half of the numbers made in fiscal years 1975 and 1976.

DELINQUENT ACCOUNTS CLOSED AND LEVY AND SEIZURE ACTIONS FROM 1975 TO 1981

Fiscal year	Number of delinquent accounts closed in district offices	Number of levies served	Number of seizures made
1975	2,543,869	660,039	19,864
1976	2,384,399	622,080	16,413
1977	1,976,310	520,236	5,875
1978	2,012,513	444,912	5,104
1979	2,148,972	465,029	5,723
1980	2,247,534	610,942	9,421
1981	2,173,494	740,103	8,848

Note: For this comparison we did not include the 1976 transition quarter.

IRS can levy or seize a delinquent taxpayer's property if assessed taxes are not paid within 10 days after notice and demand for payment. 1/ However, IRS procedures are designed to give the taxpayer a reasonable chance to voluntarily settle a tax liability before these more drastic enforcement actions are started. 2/ First, an IRS service center normally sends four notices to an individual taxpayer (three to businesses) over a 3-month period. 3/ After this, the account is sent to a district office where further attempts are made to contact the taxpayer.

1/Internal Revenue Code section 6331.

2/Internal Revenue Manual section 5311(3).

3/Internal Revenue Manual section 5(18)13.22(1) and Exhibit 5(18)00-1.

Publications explaining the collection process and what the taxpayer should do if he or she disagrees with IRS' demands are automatically mailed to the taxpayer along with the second tax delinquency notice. 1/

IRS informs the taxpayer in the final normal mailing notice that if payment is not received within 10 days or if the taxpayer does not contact an IRS office, enforced collection--levy or seizure--may be taken. While some levy actions may be taken without further contact with taxpayers, 2/ IRS usually attempts to contact the taxpayers by telephone, field visit or further correspondence to work out alternative ways to pay the tax delinquency before it levies taxpayers' salaries or wages or seizes their property. 3/ Also, when seizures are considered, procedures require IRS to attempt to notify the taxpayers in person that seizure will be the next action taken by IRS. 4/

IRS has established more controls over the use of seizures than levies. Generally, IRS does not require written supervisory approval before levy; however, before seizures are made IRS requires written approval by at least a group manager. 5/ Also, once seizure action is initiated, the cases are controlled and reviewed for procedural compliance by a special procedures staff within the Collection Division. 6/ Before revenue officers can

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1/Internal Revenue Manual sections 515(14).2(2) and 515(15).2(2).

2/Internal Revenue Manual section 5311(6).

3/Internal Revenue Manual section 5311(3).

4/Internal Revenue Manual section 5341.1(2).

5/Internal Revenue Manual section 5341.1(5).

6/Internal Revenue Manual section 5341.3(5).

enter private premises, they must have either the written permission of the taxpayer or a writ of entry from a district court.1/ Also, in every case, the revenue officer must determine prior to seizing property that the taxpayer has sufficient equity in the property to apply against the tax liability.2/

In addition to the IRS employee making the seizure, another IRS employee or a law enforcement officer must be present when a seizure is made. This provides a witness to the propriety of the action. 3/ Further, the taxpayer is asked to be present when the seized property is inventoried. 4/

We have not recently tested the effectiveness of these controls but both our prior review of IRS seizures 5/ and a recent IRS internal audit indicate that these controls were generally operating effectively at those times.

Criminal Investigation Division

In enforcing the criminal provisions of the tax laws IRS attempts to identify and investigate suspected criminal violations and recommend any warranted civil and criminal sanctions. The most frequently prosecuted violations of these provisions are willful attempts to evade tax and failure to file tax returns. IRS' Criminal Investigation Division receives information on

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1/Internal Revenue Manual section 5342.1(1).

2/Internal Revenue Manual section 5341.2(1).

3/Internal Revenue Manual section 5341.1(11) and (12).

4/Internal Revenue Manual section 5341.1(14).

5/"IRS Seizure Of Taxpayer Property: Effective, But Not Uniformly Applied" (GGD-78-42, July 31, 1978).

potential tax fraud from three basic sources--referrals from IRS' Examination and Collection Divisions, its own information gathering efforts, and information leads from other individuals and organizations.

Because Examination and Collection Division employees are involved in auditing tax returns, locating persons who do not file tax returns, and collecting delinquent taxes, they are in a unique position to spot indications of fraud. Their referrals and case records generally provide Criminal Investigation Division special agents enough information to determine if a detailed investigation should be initiated. Special agents augment this information referral program by obtaining information from other sources such as their own information gathering activities and leads from others--information items.

An information item is a tax-related communication received by IRS alleging or indicating that a particular individual or business may have violated a tax law. IRS receives many of these communications from varied sources, such as other Federal agencies, the general public, informants, and other IRS employees. These items are first screened at IRS' 10 service centers to determine their potential for a tax law violation and those having such potential are sent to the districts for further evaluation by special agents.

Some alleged and actual abuses of IRS' investigative authorities during the early 1970s led to improved management controls over information gathering activities in 1975. We reported on

IRS' case development and selection activities in November 1979.[1] We pointed out that the information gathering guidelines IRS issued in 1975 improved its controls over these activities but more needed to be done. We found that management controls needed to be strengthened over information gathering on individuals and that the justifications for investigating groups needed to provide more information on the proposed scope of the investigation and more fully and specifically indicate the groups' alleged noncompliance.

In December 1979, IRS revised its guidelines for information gathering activities to include more specific information on the scope of these activities and required that authorization requests have sufficient information to enable the authorizing official to determine whether the project is justified. [2] Specific written authorization is required before special agents can initiate information gathering efforts designed to determine whether a particular individual, business, or group has violated a tax law. The District's Criminal Investigation Division Chief must approve requests in writing to investigate individuals and the request must specify the known or assumed name of the taxpayer and the reason the information gathering should be authorized. [3] Investigations of groups of taxpayers must be approved in writing by a District Director or a higher level IRS official. The authorization must state the investigation purpose, define the scope, and specify the estimated length of the effort and the type of information to be gathered. 1/

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[1] "Improved Planning For Developing And Selecting IRS Criminal Tax Cases Can Strengthen Enforcement Of Federal Tax Laws" (GGD-80-9, Nov. 6, 1979).

[2] Internal Revenue Manual Transmittal 9-134.

[3] Internal Revenue Manual sections 9391.71(2) and 9391.61(1).

A March 1982 IRS internal audit report followed up on our November 1979 report. The report stated that compliance with the recommendations of our report was generally adequate but further refinements were needed to ensure that authorizations for information gathering projects include indications of noncompliance. In response to the internal audit report, IRS agreed to revise its guidelines to include indications of noncompliance as a criteria for authorizing information gathering projects.

IRS training programs

The procedures that I have just discussed are designed to protect taxpayer rights. However, they will be effective only to the degree that IRS employees have the knowledge and ability to carry them out. In this respect IRS has an extensive training program, offering over 500 courses in fiscal year 1981.

The amount of required classroom training is substantial. For example, according to IRS officials, during their first 5 years with IRS, Examination Division revenue agents receive about 24 weeks and Collection Division revenue officers receive about 12 weeks of training. In January 1982, the training for Criminal

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1/Internal Revenue Manual sections 9391.61(1) and (2).

Investigation Division special agents was redesigned and increased from 17 to 30 weeks of classroom training during these employees' first 5 years with the agency. In addition to the classroom training, IRS employees receive structured on-the-job training. IRS also has a program for continuing professional education.

IRS officials stated that safeguarding taxpayer rights is an integral part of most IRS activities. Therefore, instead of providing a specific training course on the subject, points on safeguarding taxpayer rights are included where needed in all training programs. For example, in the Collection Division revenue officers' initial 7-week training program, one section deals with safeguarding taxpayer rights and, in addition to listing examples of those rights, stresses that taxpayers should receive prompt, courteous, and impartial treatment. The training also teaches that, when dealing with taxpayers, revenue officers should empathize with the taxpayer and initially assume that the taxpayer wants to comply.

Internal and external controls

Devising policies, procedures, and training is not enough. Management must also have information on how well the system is actually safeguarding taxpayer rights. Recognizing this, IRS, as part of its overall management control system, has devised controls both internal and external to its operating divisions to assure that policies and procedures are being properly implemented and are providing adequate protection of taxpayer rights.

One example of a primary internal control is supervisory review of work performed by subordinates. In the Collection Division, group managers provide the first-line supervision of collection activities and employees. 1/ Each collection case is assigned to different graded IRS employees on the basis of case difficulty. 2/ Group managers receive monthly listings of cases to assist them in controlling and reviewing their groups' workload. 3/ In addition, IRS procedures require group managers to review and analyze case files as well as to accompany collection employees on field visits and observe office interviews. 4/ The reviews and analyses may be unannounced and can take place as often as the group manager feels is necessary. 5/ The objectives of these reviews and field visits are to assure that revenue officers are following IRS policies and procedures and to help revenue officers improve their collection techniques. 6/

External controls include post reviews and internal audits. IRS regional offices periodically review districts' activities. During these reviews the regional offices have evaluated the districts' use of such tools as levies and seizures, including the appropriateness of that use. According to regional officials

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1/Internal Revenue Manual sections 5184.3(1) and 5185(1).

2/Internal Revenue Manual sections 5184.1, 5184.2, and 5184.3.

3/Internal Revenue Manual section 5186.1(1) and (2).

4/Internal Revenue Manual sections 5184.3(2) and 5185(3).

5/Internal Revenue Manual section 5185(1).

6/Internal Revenue Manual section 5185(5).

in the Collection, Examination, and Criminal Investigation Divisions, the regional offices review all district activities including how well district employees safeguard taxpayer rights.

In addition, IRS' Internal Audit Division reviews management controls to ensure that they are adequate and operating properly so that taxpayers are treated fairly and equitably. These independent reviews include periodic testing and reporting on the effectiveness of internal controls to prevent, detect, and deal with IRS abuse of authority or violations of taxpayer rights.

Internal Audit officials identified for us 20 audits, conducted during fiscal years 1980 and 1981, that addressed issues directly impacting on taxpayer rights. Our review showed that these audits covered various facets of IRS operations including management controls to avoid unnecessary repetitive audits, service centers' responsiveness to taxpayer complaints, and the propriety of enforced collection actions. The internal audit of enforced collection actions was concerned with the recent increasing use of, and alleged abuses involving, liens, levies, and seizures and the impact of these actions on small business taxpayers. Internal Audit evaluated 840 randomly selected business tax delinquency collection actions and concluded that these enforced actions were warranted and that reasonable opportunity was given the taxpayers to pay their taxes voluntarily.

How IRS detects and deals with alleged abuses of taxpayer rights

Regardless of how many controls exist to prevent violations of taxpayer rights, there will still be abuses--either real or perceived. Recognizing this, IRS' overall management control system for safeguarding taxpayer rights includes controls for detecting and dealing with such violations.

The existing controls, in part, rely on taxpayers to complain if they feel they were treated improperly. In addition, IRS has Internal Audit and Internal Security programs to identify specific incidents of taxpayer abuse. Also, IRS employees are instructed to report misconduct of fellow employees to Internal Security.

Once alleged violations are detected, IRS has established several procedures for dealing with these incidents. Normally the allegations are initially handled by the operating divisions. If an allegation is not resolved at this level, it can be referred to the Problem Resolution Office. Serious misconduct cases are immediately referred to Internal Security and bypass the above procedures.

Although controls exist to detect and deal with violations of taxpayer rights, IRS does not know how many such violations occur. There are no mechanisms in place for capturing statistical data on the problems handled within the operating divisions. Statistical information is developed by the Problem Resolution Office but that information reflects only those complaints with which the Problem Resolution Office becomes involved.

Detecting alleged abuses

Taxpayers learn about the complaint system in many ways. IRS tells taxpayers both verbally and in publications that they should inform an IRS employee's supervisor of any actions the employee proposes or takes that the taxpayer objects to. Audited and delinquent taxpayers receive IRS publications explaining the audit and collection processes, listing some examples of specific taxpayer rights, explaining the way to voice complaints, and describing the program for resolving problems in the Problem Resolution Office. The Problem Resolution Office is further publicized through newspapers, television and radio spots, tax practitioner newsletters, posters, telephone directory listings, and in the tax form packages provided to taxpayers.

Internal Security also advertises its availability to taxpayers through posters located in IRS offices. In addition, IRS' Taxpayer Service Division has toll free numbers taxpayers can use to phone in complaints. Apart from complaining directly to IRS, taxpayers may also complain to higher echelon Administration officials or to their congressional representatives.

Operating divisions' handling of complaints

IRS attempts to handle complaints first through its normal operating procedures. This means that, usually, the complaint is handled by the operating division. For example, a taxpayer who complains about an examiner's action during an audit can first go to the examiner's group manager. The group manager is responsible for resolving the dispute and initiating any personnel action against the examiner that may be warranted. If a taxpayer is not satisfied with the way the complaint was handled by the division and continues to complain, the problem is referred to the Problem Resolution Office. This referral can be done by either the taxpayer or the operating division.

IRS does not maintain statistics on the number or type of problems handled within the operating divisions. We did not attempt to evaluate the feasibility of capturing this data, but, considering the number of contacts these divisions have with taxpayers, the task might be mammoth. An alternative might be for IRS to scientifically sample contacted taxpayers to determine how well those taxpayers believe their rights were safeguarded. As with any scientific sampling technique, there may be problems in obtaining candid responses. This, along with other advantages and disadvantages, should be fully considered before such a requirement is adopted.

Problem Resolution Office handling of complaints

The Problem Resolution Office was established nationwide in 1977 to (1) give the taxpayer someone to turn to if the system fails to solve the problem, (2) assure that the problem is not lost or overlooked, and (3) identify organizational, procedural, and systemic problems so that corrective action can be taken. Once the problem or complaint reaches the Problem Resolution Office, it is controlled. Once controlled, IRS attempts to notify the affected taxpayer within a week to let the taxpayer know that IRS is looking into the problem. IRS' goal is to try to resolve such controlled complaints in 30 days. The problems, however, are normally sent back to the operating division for resolution. The Problem Resolution Office serves as a mechanism to monitor actions taken by the divisions to ensure that the complaints are considered and resolved in a timely manner. The Problem Resolution Officer can refer cases to higher authorities if he or she feels the operating division did not satisfactorily resolve the problem.

According to statistics developed by the Problem Resolution Office, 313,000 taxpayer complaints were referred to it in fiscal year 1981--an increase of about 40 percent over the number of complaints in 1980. About 318,000 complaints were closed in fiscal year 1981 compared to 211,000 closed in 1980. The two largest categories of complaints dealt with delays in either IRS issuing a refund or the service centers responding to a taxpayer. These two areas accounted for 23 percent of all complaints.

This statistical information developed by the Program Resolution Office is not as useful as it could be and does not completely reflect the extent of the complaints on violations of taxpayer rights. IRS does not maintain statistics on how the complaints were resolved. For example, IRS does not record whether the complaint identified a valid IRS problem or whether the complaint was not IRS' fault. Therefore, IRS cannot systematically identify valid problem areas which may need management's attention.

Attempts are made by Problem Resolution Officers in each district to identify systemic problems. But this is not done scientifically; rather, it is up to the individual officer to determine trends on the basis of his or her awareness of the type of complaints received and the resolution.

In addition, IRS records and tracks complaints only for the primary issue involved. IRS officials informed us that complaints about tax issues or procedures are considered primary issues. Therefore, if a complaint was received which dealt with both a tax issue and an employee behavior problem, only the tax issue would be recorded and tracked. During our recent limited review of IRS' procedures and practices for safeguarding taxpayer rights, we found a few cases which were recorded and tracked for a tax issue that also included a complaint about employee behavior. Thus, recording and tracking for only the primary issue may account for the fact that only 181 of the complaints closed in fiscal year 1981 were recorded as involving discourteous service by an IRS employee. As a result, neither we nor IRS knew how many complaints of taxpayer abuse were actually referred to the Problem Resolution Office.

We explored with IRS the feasibility of gathering additional information on how complaints were resolved and the number of complaints that involved IRS employee behavior. IRS officials expressed concern about the cost of such a system and the possible problems that may arise by having an outside organization track the resolution of complaints that are local management's responsibility and may involve adverse personnel actions. While IRS officials had no quantitative data to support their concerns, we believe those concerns merit consideration.

Given the fact that the current statistical information system does not provide a complete picture of alleged violations of taxpayer rights and considering the concerns IRS raised about gathering such information, we believe IRS needs to fully explore all the advantages and disadvantages of gathering the information; document its findings and conclusions; and, to the extent possible, support the conclusions with quantitative data.

Internal Security investigates allegations of serious IRS employee misconduct

IRS' Internal Security Division is responsible for administering programs to protect the integrity of IRS. To carry out this responsibility, Internal Security conducts background investigations of current and prospective employees, performs internal control tests to identify procedural weaknesses and possible integrity violations, and makes presentations to IRS employees on their conduct responsibilities and the consequences of not meeting those responsibilities through an integrity awareness program. However, its major efforts in safeguarding taxpayer rights are in investigating allegations of serious employee misconduct. Such allegations may come from taxpayer complaints; referrals by other Government agencies, IRS divisions, or employees; or from self-initiated integrity investigation projects.

During fiscal years 1979 through 1981, Internal Security expended about 28,000 staff days investigating 1,687 cases of alleged employee misconduct. As a result of these investigations, 244 employees were separated from IRS, 431 were suspended or reprimanded, and 113 were convicted for criminal activities. Data is not readily available as to how many of the 1,687 cases involved taxpayer rights issues. However, our review of Internal Security's management information reports covering certain fiscal year 1978 through 1980 employee investigations (see attachment for a statistical summary) shows that Internal Security investigated many complaints of extortion, bribery, conflicts of interest, and disclosure of tax information by IRS employees and that these investigations frequently resulted in the prosecution of, and/or adverse personnel action being taken against, IRS employees.

Furthermore, on the basis of our review of Internal Security operations completed in January 1979 1/ and our recent limited review of 33 judgmentally selected investigative case files in IRS' Midwest and Western Regions, we believe that Internal Security investigations are generally of a high quality and that case dispositions are generally reasonable in light of the evidence developed.

Although taxpayers can complain directly to Internal Security, some misconduct allegations also come from IRS managers and employees. IRS managers and employees are made aware of their responsibilities to report certain types of misconduct cases to Internal Security through the IRS handbook on employee responsibilities and conduct and Internal Security's Integrity Awareness Program. During fiscal year 1980 and 1981, Internal

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1/"IRS Inspection Service Functions: Management Can Further Enhance Their Usefulness" (GGD-78-91, Jan. 30, 1979).

Security made 1,821 integrity awareness presentations to about 47,000 employees.

Generally, supervisors and managers are expected to handle employee problems of an administrative nature such as not following prescribed procedures or treating taxpayers discourteously, while Internal Security handles the more serious cases such as extortion, bribery, and conflicts of interest. Also, if after initial evaluation of an allegation, Internal Security determines that the employee misconduct does not warrant an Internal Security investigation, the facts of the case will be sent to IRS management for any needed administrative action.

In addition to investigating allegations reported to it, Internal Security does some searching on its own. During fiscal years 1980 and 1981, Internal Security spent about 6,600 staff days on integrity projects to assess the extent of criminal conduct occurring due to internal control weaknesses or through circumvention of controls. Internal Security identified 281 cases requiring investigations. For example, in one project Internal Security identified an employee who was selling confidential tax information. After a full investigation the employee was dismissed and prosecuted. The employee was sentenced to 1 year in prison.and fined $1,000.

Internal Audit also works closely with Internal Security in developing and implementing a preventive program to review internal controls to determine if material fraud exists and to evaluate the effectiveness of these controls in deterring and detecting material fraud. The audits concentrate on IRS programs determined to be most susceptible to breakdown in control and breaches of integrity. In some cases, these audits directly impact on the adequacy of IRS' controls to safeguard taxpayer rights. For example, Internal Audit has looked at IRS procedures for

--collecting and depositing delinquent taxes and securing delinquent tax returns,

--suspending accounts from active collection activity,

--determining and assessing tax deficiencies, and

--protecting tax information from disclosure.

EFFECTS OF SELECTED PROVISIONS OF THE 1976 TAX REFORM ACT

I would now like to discuss our observations on two of the many provisions of the Tax Reform Act of 1976 that deal with safeguarding taxpayer rights. We recently testified before this subcommittee on the disclosure provisions of the act. Today I will discuss the administrative summons and the return preparer penalty provisions.

Let me preface my statement by saying that, as with our other work in the area of tax administration, we looked at both the effects of these provisions on IRS and tax administration in general, as well as their effects on taxpayer rights.

The summons provisions of the 1976 Tax Reform Act protect taxpayer rights but also interfere with IRS' investigative activities

At this point, I would like to discuss the third-party recordkeeper summons provisions of the Internal Revenue Code which afford taxpayers certain protections but also unnecessarily interfere with IRS' investigative activities.

Most IRS officials responsible for examining tax returns, collecting taxes, or investigating a taxpayer's failure to comply with the tax laws are authorized to summon a taxpayer or a third-party recordkeeper--such as the taxpayer's accountant or banker--to produce books, papers, records or other data. Before March 1, 1977, IRS was not required to notify a taxpayer when it issued a summons to a third-party recordkeeper. Thus, taxpayers sometimes were unaware of IRS' investigations into their financial affairs.

The Congress, through the Tax Reform Act of 1976, required that IRS notify the affected taxpayer after issuing a summons to a third-party recordkeeper. The taxpayer then has 14 days within which to stay compliance, that is, to order the third party to not comply with the summons. If IRS initiates court action to enforce a stayed summons, the taxpayer can intervene in the court proceeding.

Both Department of Justice and IRS officials contend that the current stay procedure often is used as a delaying tactic by investigative targets whose sole intent is to disrupt investigations. In a March 1979 report, 1/ we pointed out that IRS was not collecting the statistical data needed to support that contention. Nevertheless, on the basis of the limited data we had collected, we recommended that the Congress consider revising the summons provisions to prevent abuses while retaining essential taxpayer safeguards. Concurrently, we recommended that IRS develop a summons reporting system to collect the data required to convince the Congress of the need for a legislative change.

IRS responded to our recommendation by initiating efforts to develop and implement a computerized summons reporting system. As an interim measure, IRS' Western Region did a detailed analysis of summons problems. It disclosed that taxpayers stayed compliance in relatively few instances. Only 240, or 8.5 percent, of the 2,823 summonses issued by the region's criminal investigators were stayed during the first 6 months of fiscal year 1979. Significantly, however, the region found that tax protesters and individuals involved in illegal activities, including drug traffickers, were the persons most likely to stay compliance. A total of 304, or 75 percent, of the 411 summonses pending enforcement at June 30, 1979, involved such persons. The region also noted that, during fiscal year 1978, taxpayers stayed compliance in 691 instances but actually contested summonses in court in only 82 instances, or about 12 percent of the time. This indicates that

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1/"Disclosure And Summons Provisions Of 1976 Tax Reform Act--Privacy Gains With Unknown Law Enforcement Effects" (GGD-78-110, Mar. 12, 1979).

many individuals who stay compliance seek only to delay an ongoing criminal tax investigation.

Despite these indications, the extent to which the summons provisions are used nationwide to impede IRS investigations is unknown because IRS still has not collected comprehensive data on the problem. Although its computerized summons reporting system is now in place, the data being generated is incomplete and inaccurate, according to IRS officials. The officials noted, however, that efforts were being made to perfect reported data and to correct deficiencies in the system. They further stated that this was being done because IRS still is experiencing serious problems with the summons provisions.

Recently, we sought to develop data on the extent and severity of those problems in five IRS district offices. We found, however, that the districts did not have readily available records of summonses issued to third-party recordkeepers and, as a result, we were unable to define universes from which to select representative samples. We, therefore, limited the scope of our work to obtaining readily available data on and examples of problems IRS has experienced with the summons provisions.

In Boston, the Assistant Chief of the Criminal Investigation Division sought to gather data for us on summonses stayed by taxpayers during fiscal year 1980. According to the Assistant Chief, 693 third-party recordkeeper summonses were issued during fiscal year 1980. Of these, 59, or 9 percent were stayed. Subsequently, the Justice Department sought district court enforcement of 54 of the 59 stayed summonses. As of November 1981, 50 of the 54 stays had been ruled on by district courts. All 50 were decided in favor of the Government. In 40, or 80 percent, of the cases, the taxpayer did not appear in court.

In Dallas, we were able to determine that the district issued 562 third-party recordkeeper summonses in fiscal year 1980. Of these, 68, or 12 percent, were stayed. When we completed our work, 58 of the 68 stays had been settled via district court action. In 50, or 86 percent, of the 58 cases, the taxpayer did not appear in court.

The following examples further indicate the problems IRS has encountered with the summons provisions:

- --IRS issued a summons to a bank with respect to a taxpayer under investigation for unreported income. The taxpayer stayed compliance in October 1980. The Justice Department subsequently obtained a June 1981 hearing in district court on summons enforcement. The taxpayer did not appear for the hearing. The court thus granted enforcement of the summons. Nevertheless, IRS' investigation had been delayed for 8 months.
- --IRS issued several third-party recordkeeper summonses with respect to a farmer's tax liability in August 1980. In April 1981, the farmer's attorney indicated to IRS that he would not seek to contest two of the five summonses in court.
- --IRS issued three summonses to banks during its investigation of an individual whose business involved selling family trusts. It took the Justice Department an average of 1 year to obtain a district court hearing on each summons. The taxpayer did not appear for any of the hearings and each summons then was enforced. Yet the taxpayer had successfully delayed IRS' investigation.

Although the full extent to which IRS' investigative efforts are thwarted by misuse of the summons provisions remains unknown, there are some statistics and some specific case examples of serious problems. These isolated statistics and examples provide no basis for removal of present taxpayer safeguards. There is, however, a legislative remedy which would at least partially resolve IRS' problems with the summons provisions while retaining essential taxpayer safeguards. Specifically, the law could be amended to specify that taxpayers must initiate court action to stay compliance of third-party recordkeeper summonses. H.R. 1501, which currently is under consideration by this subcommittee, would accomplish such a revision.

IRS still would be required to notify the affected taxpayer when it issues a summons to a third-party recordkeeper. Likewise, the affected taxpayer would still have an opportunity to stay compliance with the summons. However, the bill would require the taxpayer to file a motion to quash the summons in the local district court, rather than allowing him or her to stay compliance without a court action. This is similar to the procedure set forth in the Right to Financial Privacy Act of 1978 which addresses Federal agencies' access to customers' records maintained by financial institutions and establishes procedures to safeguard the privacy of such records. Accordingly, we support enactment of H.R. 1501.

Present status of IRS' administration of tax preparer penalties

The 1976 Tax Reform Act afforded taxpayers some safeguards against negligent and/or fraudulent paid return preparers. Among other things, the act authorized IRS to assess penalties--ranging from $5 to $500--against paid preparers who (1) do not identify themselves or only partially identify themselves on tax returns,

(2) do not keep adequate records, (3) understate a taxpayer's tax liability, and/or (4) negotiate a taxpayer's refund check. Over 200,000 paid preparers are subject to these provisions.

At the request of this subcommittee and the Joint Committee on Taxation, we are currently evaluating the extent to which IRS has been successful in implementing the Tax Reform Act's paid preparer provisions. Although we have not yet completed our work, preliminary analyses indicate that IRS has achieved some success in dealing with preparers who do not fully identify themselves on returns. On the other hand, IRS has been less successful in dealing with preparers who do not identify themselves at all on returns and/or do not keep adequate records. Further, the extent to which IRS has been successful in detecting and deterring preparers who commit serious conduct violations is unknown. IRS is not collecting and/or not analyzing the data it needs to assess program effectiveness.

Through educational efforts and assessment of penalties, IRS has been able to substantially reduce the number of paid preparers who provide only partial identification information on returns. In calendar year 1979, IRS assessed 33,937 penalties against preparers who did not fully identify themselves. Such preparers may have omitted their names, social security numbers, and/or employer identification numbers. In 1981, however, IRS assessed only 3,241 such penalties primarily because preparers had become more aware of the need to fully identify themselves on returns. Thus, IRS has been successful in getting a segment of the paid preparer population--those who already were providing partial identification--to better comply with the law.

On the other hand, IRS has not achieved such dramatic success with respect to preparers who provide no identification on returns and/or do not keep required records. In this regard, rather than set up a costly new compliance program directed at paid preparers, IRS decided to rely on its normal enforcement approaches to detect non-disclosure violations. As a result, individuals who commit these violations generally will not be detected unless returns they prepare are selected for examination. Presently, IRS examines less than 2 percent of returns filed each year. However, even if such returns are selected for examination, these preparers may not be detected unless they or their taxpayer clients respond to examiners' probing questions concerning who prepared the return, whether it was prepared for a fee, and whether required records have been kept.

Despite this somewhat limited compliance program approach, IRS assessed 13,088 penalties against preparers for non-disclosure and recordkeeping violations in 1980, and, in 1981, 11,773 such penalties were assessed. Nevertheless, a question remains as to whether IRS is in fact detecting and penalizing a sufficient number of preparers who commit these violations.

With respect to preparers who understate taxpayers' tax liabilities, IRS' efforts have been hampered by inadequate guidelines. For example, IRS has not specifically defined the difference between the $100 negligent or intentional misconduct penalty and the $500 willful misconduct penalty. Further, it was not until 1980 that IRS provided examiners with some specific guidelines on whether penalties were to be asserted for isolated errors. Also lacking until 1980 was guidance on the means through which to determine whether preparer errors were material in nature and whether preparer errors were attributable to tax law complexity rather than misconduct. As a result, no trends have yet surfaced with regard to these penalties.

Concerning penalties asserted against preparers for endorsing or negotiating a taxpayer's refund check, IRS' enforcement efforts have been extremely inconsistent. One IRS district--Louisville--has accounted for 3,445 or 66 percent, of the 5,242 refund check penalties asserted nationwide during 1980 and 1981. This variance occurred primarily because the Louisville district adopted an aggressive approach to identifying refund check violations. Instead of relying solely on questions put to preparers during examinations, the district used service center generated lists to identify potential targets. District examiners then visited the offices of selected preparers and asked pointed questions. By doing so, the examiners were very successful in detecting and penalizing violators.

Although service center generated lists were available to all IRS districts, only the Louisville district took advantage of them. According to IRS officials, there is no reason to believe that refund check violations are unique to the Louisville district. Therefore, we question whether IRS has detected and penalized a sufficient number of refund check violators nationwide.

In sum, the extent to which IRS has been effective in detecting and deterring problem preparers is unknown. Besides problems relating to limited examination coverage and inadequate guidelines, IRS has not sought to collect or analyze the data needed to assess program effectiveness. Of particular concern is the fact that IRS lacks data on repeat offenders. Without data on repeat offenders, IRS will be hard-pressed to know whether it is making effective use of a key provision of the 1976 Tax Reform Act that authorizes IRS to remove a preparer from practice when such removal is appropriately justified. During 1977 through 1981, IRS invoked that provision on three occasions.

In our view, a more systematic approach to the preparer penalty program is needed. We plan to issue a report containing specific recommendations on this matter later this year.

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In summary, Mr. Chairman, our work over the past several years at IRS has disclosed neither flagrant abuses of taxpayer rights nor indications of systematic attempts to violate such rights. We attribute this in large part to the success of IRS' management control system. That system includes policies, procedures, and controls which provide reasonable assurance that abuses of taxpayer rights are minimized in number and that those abuses which do occur are detected and dealt with in an acceptable manner.

However, considering that IRS has about 85,000 employees, about 49 million contacts with taxpayers a year, and that individual judgment is required when IRS deals with taxpayers, there can never be 100 percent assurance that a violation of taxpayer rights will not occur. Notwithstanding, we believe that the management system we have discussed today is designed to keep instances of such abuse to a minimum. This is not to say that individual aspects of the system cannot be strengthened.

Even though the system may be working, the fact that IRS does not know the number of complaints it receives about violations of taxpayer rights or how satisfied taxpayers are with treatment they receive from IRS does leave a void. I have discussed two possible approaches to capture this information--the statistical surveying of taxpayers to determine their satisfaction with IRS' treatment and expansion of the information developed by the Problem Resolution Office. Both approaches have advantages and disadvantages which have not yet been explored. Therefore, if the subcommittee sees a need to fill this void, we suggest that IRS be tasked to look into the feasibility and desirability of these two approaches. IRS should document its findings and conclusions and, to the extent possible, support the conclusions with quantitative data.

Concerning the summons provisions of the 1976 Tax Reform Act, we see a need for a legislative change. While the problems IRS has encountered with the provisions have not been fully documented, there is sufficient information available to support the need for legislative action. Clearly, some taxpayers are using the provisions solely for the purpose of delaying and/or thwarting

IRS investigations. H.R.1501 would prevent such abuses but, importantly, would also preserve taxpayer rights in summons matters. Accordingly, we support enactment of that bill.

With respect to the preparer penalty sections of the Tax Reform Act, we see a need for various actions on IRS' part to improve administration. We plan to specify those actions in a report later this year.

This concludes my prepared statement. I would be pleased to answer any questions.

ATTACHMENT ATTACHMENT

Summary of Investigations of Selected
Alleged Employee Violations
For Fiscal Years 1978 Through 1980

		Adverse adjudications		
Type of alleged violation	No. of incidences investigated	Adverse personnel action	Resigned prior to adjudication	Accepted for prosecution
Fraudulent claims	590	105	73	45
Embezzlement	186	13	7	25
Theft of Gov't property	166	27	23	15
Conflict of interest	289	37	9	2
Computer fraud	69	13	3	1
Extortion	189	20	8	4
Bribes and gratuities	177	9	5	10
Disclosure	172	20	8	4
Total	1,838	244	136	106

Chairman **Rangel**. Thank you, Mr. Anderson.

How far back did your evaluation of IRS go?

Mr. **Anderson**. We were provided independent access by the Tax Reform Act of 1976, sir, so our history, really, of doing audits at IRS starts in about 1977.

Chairman **Rangel**. Then there is no need for me to go into their prior activity?

Mr. **Anderson**. I am afraid not, sir.

Chairman **Rangel**. Because you referred to the civil rights activists, and of course, we have had some political problems with them, but that is good to know that you had that much.

Mr. Duncan.

Mr. **Duncan**. I have no questions.

Thank you.

Chairman **Rangel**. We will have the record remain open for some questions. We have to have a vehicle for taxpayers who do have a legitimate complaint, where there is some need of oversight. I assume that one or all of you heard some of the testimony this morning. I think we have developed where the taxpayers are willing to waive some of their rights of privacy, and this Commissioner is willing to work with the Congress.

If you can think of a better way to do it, I hope you will feel free to make your suggestions for the record, but notwithstanding IRS's good record, there are still any number of taxpayers that believe that they have been abused, and some with good cause. The Commissioner admits that those things do occur, and we would like to be able to assist them in their awesome responsibility.

Thank you very much.

Mr. **Anderson**. Thank you, sir, our pleasure.

Chairman **Rangel**. We have Mr. Thomas Bell of Citizen's Choice here, and representatives of the National Treasury Employees Union represented by Mr. Vincent Connery. Is Mr. Connery here, and Mr. Jerry Klepner, director of legislation?

STATEMENT OF THOMAS BELL, CITIZEN'S CHOICE, INC., ACCOMPANIED BY JOHN C. LYNCH, LEGISLATIVE COUNSEL, ON BEHALF OF THOMAS J. DONOHUE, PRESIDENT

Mr. **Bell**. We are pleased to be here before the committee today on behalf of Citizen's Choice, which is a 75,000-member taxpayers' organization with members representing most segments of society.

We have been working with the committee on this issue of taxpayer safeguards for some time, and toward that end, in 1980 and 1981, did a study called the National Commission on Taxes and the IRS, where we went to 10 cities across the country, held field hearings, talked to several thousand individual taxpayers, and collected over 12,000 pages of testimony on just this subject, the abuse or potential abuse and the relationship between the Internal Revenue Service and the taxpayer. It should come as no surprise to you, Mr. Chairman and members of the committee, that the relationship between taxpayer and Government is not particularly good, and it gets worse on a daily basis.

We feel that the reason for that, in fact, we have had demonstrated to us that the reason for that is not specific abuse on the part of the Internal Revenue Service, which to our knowledge and the information we were able to collect does a pretty good job. In fact, the IRS does an excellent job given the immensity of the task which confronts them. Any abuse, like the seizure that was being discussed earlier, were the exceptions and certainly not the rule.

The problem is, instead, sir, that the system has become so complex and the rates have become so excessive, that the perception of unfairness on the part of middle and lower, and even to some lesser degree, the upper income taxpayers, has become so great that the system is collapsing under its own weight.

This has created an increasingly difficult adversial relationship between the taxpayer and the Service, and it just makes that job much more difficult to do. We discovered in our study that there is now a wholesale avoidance of taxes.

The underground economy, which is the subject of great debate now, is, of course, increasing on a year in-year out basis. People for the first time seem to believe that it is OK to cheat the Government out of their fair share of taxes if they can get away with that, because they feel the Government is in turn cheating them on the services that they provide. During the seventies, as inflation has forced the average taxpayer into higher and higher brackets, they feel like they are getting less and less for their money.

They don't understand the laws that exist. Every year, the Congress in an attempt to fix economic and social problems make the law more complex, and therefore, more impossible to understand, and the system just continues to amplify and aggrevate itself.

So, we respectfully recommend to the committee that rather than try to fix the Internal Revenue Service or the way in which they go about their business, that the citizens, in fact, would prefer that the system be changed, that the system be made simpler, easier to understand, basically fairer and that an alternative method of taxation be considered by this committee that they could understand and that they would feel comfortable with.

We have brought together a group called the National Forum on Tax Alternatives which includes two Internal Revenue Service Commissioners, Don Alexander and Jerry Kuatz, to try to come up with a system to recommend to the committee of just this nature, because we believe that until the complexity problem is solved, until the average citizen feels that they are getting a fair shake with regard to their taxes from the Federal Government, that you will never convince or you will never create a mechanism through which the tax collecting service can have any other type of relationship with the citizens than an adversary relationship.

Until steps are taken to massively simplify the present system you will never reinstill into the average taxpayer's heart this voluntary compliance system that was created and was unique in this country, and you will never convince them that they in fact have the rights that they believe they should have, and the people in this room obviously feel earlier today that they do not have under the system.

In summary, Mr. Chairman, and members of the committee, Mr. Duncan, we suggest two things: One is that the committee move quickly to examine a taxpayer's bill of rights unlike those that have already been recommended and introduced into the Congress, but a much simpler and easier-to-understand rights bill which would include notice of seizure, court orders, a *Miranda*-type warning to any taxpayer in audit-type situation, so that they would know what their rights are, and a lessening of severity in the attitudes of individual agents as to whether you can or cannot tape interviews.

We recommend those things be done, Mr. Chairman, and also that the Ways and Means Committee and the Finance Committee of the House give serious consideration and hopefully hold hearings on a grossly and radically simplified alternative methods of taxation.

Thank you for having us.

[The prepared statement and additional submissions follow:]

Statement of Thomas J. Donohue, President Citizen's Choice, Inc.

I am Thomas J. Donohue, President of Citizen's Choice, a national grassroots taxpayers' organization founded in 1976. Citizen's Choice has presently over 75,000 taxpaying members nationwide representing all sectors of our society.

I am pleased to have this opportunity to testify before the House Subcommittee on Oversight of the IRS on the topic of Taxpavers Safeguards. Citizen's Choice is uniquely qualified to present testimony on this subject having made a year and a half long investigation into the relationship between the taxpayer and the Internal Revenue Service. The findings and recommendations of this National Commission on Taxes and the IRS are not only the most up to date information available on the subject but also, quite frankly, lead to the conclusion that unless something is done immediately to improve the relationship between the taxpayer and the IRS and to massively simplify the present tax system, our system of voluntary tax compliance will collapse.

The Commission consisted of twenty-five prominent business, academic and professional leaders and solicited the views of over 3,000 taxpayers by holding public hearings in ten American cities. Additionally, opinions were taken via a toll free "tax line" and the submission of written testimony. Over 12,000 pages of testimony was collected from the thousands of citizens who either attended the hearings or otherwise presented their opinions.

The findings made it quickly apparent that the state of citizen/government relations is not well.

The major conclusions were:

1. That Congress should re-examine the tax rates; something Congress has taken the initial steps on with the enactment of the Tax Act of 1981;

2. That the taxpayers' basic perceptions of the IRS and the tax system are disillusionment and fear;

3. That this is primarily due to the unbelievable complexity and as yet still oppressive tax rates of the present tax system; and

4. That many people are beginning a wholesale avoidance of paying taxes through underground activities, shelters and cheating.

People fear what they do not understand. People fear when they are perceived as guilty until they prove themselves innocent. People fear when they know that a federal agency can take their property, their personal effects, or their hard earned wages without first seeking the permission of the judiciary.

This fear I speak of is the result of a tax system gone out of control. Many times the end result is that taxpayers are so intimidated they in effect purchase their civil rights - and their peace of mind - by paying taxes in excess of what they believe they owe, "just to be safe". And, although the United States has one of the highest compliance rates in the world many citizens are beginning to take the opposite tact. Spurred in part by a perception that the tax system is fundamentally unfair, tax avoidance is becoming rampant and because the chances of being audited are slim, many taxpayers are joining the so called "underground economy", or sheltering income or evading taxes in some other manner. Recent estimates of a nearly 125 billion annual loss of revenue as a result of underground activity and the correlation between this figure and projected three-figure deficits in our annual budget, serve to highlight the severity of the situation and the necessity of immediately improving the relationship between the taxpayer and the government's collecting authority.

With this in mind, it is obvious to Citizen's Choice that Congress should act quickly to reassure the taxpayers of their rights and institute long overdue tax reforms if the federal government hopes to regain the confidence and respect of its citizens and taxpayers. In this regard, we were greatly encouraged by the passage of the "Taxpayer Protection and Reimbursement Act" by both Houses of Congress last December. This bill which awards attorneys fees to taxpayer litigants who have prevailed in an action with the Internal Revenue Service where the Services position was unreasonable, represents the first positive step that Congress has taken to improve the subject relationship. However, the passage of one bill falls far short of the steps which need to be taken to alleviate the fear the average taxpayer has in dealing with the IRS and thus correspondingly improve the rate of tax compliance. It is the opinion of Citizen's Choice that Congress should immediately pass a "Taxpayer's Bill of Rights" which would eliminate or curtail certain of the more fear engendering powers of the IRS as well as establish a set of well publicized rights that the taxpayer has during the course of his dealings with the Internal Revenue Service.

Citizen's Choice is aware that during the course of the past three Congress' "Taxpayer's Rights" legislation has been introduced. Unfortunately, such legislation has not been seriously considered. We believe that this is because the Congress has not been made aware of the rapidly deteriorating relationship between the taxpayer and his government. For this reason, Citizen's Choice made an extensive review of every piece of Taxpayer's Rights legislation which has been introduced, deleted some of the more overbroad or obsolete provisions contained in the legislation, added some of our own and have compiled the Citizen's Choice "Taxpayer's Bill of Rights" which I have attached and make a part of my testimony today.

Prior to discussing the Citizen's Choice "Bill of Rights", it should be emphasized that although fear and mistrust of the IRS were themes that were constantly sounded throughout the Commission's investigation, the fear appeared to be less a fear of individual persons within the IRS than a fear of the IRS as an institution or the tax system as a body of law. The Commission was often told that individuals within the service were efficient, courteous, fair and hard working. This curious tendency to divorce the system from its members was confirmed by a recent GAO survey, which found that citizen complaints about the tax system almost always centered on the system itself, with its delays and inequities, rather on the individuals who were administering it. Of course, satisfaction with individuals was not universal and the Commission heard several complaints about the level of competence within the IRS. On the whole, however, the worst cases of incompetence, harrassment and down right malice appeared to be either isolated instances of abuse or problems directly traceable to poorly conceived laws that no one could administer equitably.

At a deeper level, however, there is one underlying cause for the malaise that affects American tax administration, and for the fear and resentment that citizens feel towards an agency that is more often than not "efficient and courteous". But as I have indicated previously, the Commission concluded that the overwhelming complexity and scope of the American system of taxation is responsible for the dissatisfaction, bording on rebellion, that exists in our country today. Again, people fear what they do not understand, and the American tax structure of 1982 has passed the point of rational human comprehension.

The problem, therefore, is two-fold and produces two bottom line questions:

1. How can we improve the relationship between the taxpayer and the Internal Revenue Service, and
2. What can be done to simplify the present tax system?

Citizen's Choice's answer to the first question is our "Bill of Rights". This legislation is highlighted by the following changes and/or additions to the Internal Revenue Code:

1. Section 6331 of the Internal Revenue Code relating to levy and distraint and permitting the seizure of property without judicial review would be deleted. In its place would be the requirement that before levy is made against the personal or real property of an individual a court order would have to be obtained.

2. Section 6334 (A), relating to property exempt from levy, would be amended so that property used in an individuals trade or business would be exempt, thus allowing the taxpayer to have a means of paying off his indebtedness. Under present law, only property not exceeding $250 in value is exempt. The current law pertaining to property exempt from seizure has remained on the books, unchanged, since 1939.

3. Added to the miscellaneous section of the code would be:

   A.) the requirement that an interview of any taxpayer by an officer and/or employee of the Internal Revenue Service in connection with the assessment of deficiencies should be conducted at a time and place convenient to both the service and the taxpayer provided it was within sixty days of the audit notice.

B.) that simultaneous with the issuance of an audit notice, the taxpayer would be sent a list of rights he has during and subsequent to an audit. This list would include: 1) how a taxpayer appeals an adverse decision by the IRS; 2) how taxpayers can file a complaint; 3) what procedures the IRS can use to collect revenues.

C.) that taxpayers would be permitted to record interviews with IRS agents.

D.) that the IRS must warn the taxpayer of his right to the presence of an attorney or accountant during an audit. All of these above rights would be outlined in the initial audit notice.

The rapidly deteriorating relationship between the taxpayer and the Internal Revenue Service and the resulting high rate of noncompliance mandates that immediate action be taken to foster a more cooperative atmosphere between the respective sides. Taxpayers Rights is an issue which has been exploited by some to the disadvantage of the taxpayer. We have no time for hysterical accusations against the IRS which might enhance our position as a taxpayers organization. However, as a result of a comprehensive investigation into the matter, we believe that the suggested changes and/or additions to the code should be made as swiftly as possible.

In conjunction with these changes, the Internal Revenue Service should publicize its endorsement of these changes and thus indicate its willingness to improve the relationship. Both the legislation and the Services' endorsement of it would go a long way in averting what we believe is the imminent collapse of our voluntary system of taxation.

Nevertheless, this legislation should be seen both by legislators and administrators as only part of a larger pattern of tax reform. I can not emphasize strongly enough that the root of the present attitude that the taxpayer has towards the tax system lies with the complexity of the tax system itself. Exploring the subject of taxpayer safeguards and enacting legislation which would seek to guarantee these safeguards is only a finger in the dike of a much larger problem.

The Commission's study indicated that "massive simplification" is urgently required if tax administration is to be improved. The problems generated by excessive complexities simply will not yield to any less drastic solution.

Recognizing this, Citizen's Choice recently convened the "National Forum on Tax Alternatives" which brought together twenty-eight distinguished invitees including economists, business leaders, Congressmen and Administration officials, who discussed at length the topic of alternatives to the present tax system. This first step in what Citizen's Choice hopes will become a national debate resulted in a resolution signed by the representatives which called upon the Finance and Ways and Means Committees to conduct hearings into the subject of tax alternatives "in order to provide for a more equitable, efficient and simpler system of taxation". I have attached a copy of this resolution and make it a part of my testimony today.

It is the responsibility of Congress to guarantee that the taxpayers are treated with respect and with the full measure of protection under the law that they are due as American citizens. It is also the Congress' responsibility to perceive a problem and to enact legislation which would solve it. In this regard, Congress' task, like the problem we have discusses, is two-fold. First, Congress should enact a "Taxpayer's Bill of Rights" in order to improve the relationship between the taxpayer and the Internal Revenue Service. Secondly, and more importantly, Congress should recognize the root of the problem and take steps to drastically reform the present tax system.

On behalf of the members and staff of Citizen's Choice, I offer to this Committee and to any of its members in particular, our assistance in any way you might find it helpful toward reaching our common goal of a more effective tax administration system. We look forward to working with you to this end.

CITIZEN'S
CHOICE

TAXPAYERS BILL OF RIGHTS

Provisions Supported by Citizen's Choice,
The National Taxpayers Union and
The National Taxpayers Legal Fund

After consultation and review of the various pieces of proposed legislation falling under the general heading of "The Taxpayers Bill of Rights", the following provisions and suggested language are endorsed by the above-mentioned groups.

Court Order Requirements

Section 6331 of the Internal Revenue Code of 1954 (relating to levy and distraint) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) COURT ORDER REQUIRED FOR COLLECTIONS. --

"(1) IN GENERAL. -- Levy may be made under subsection (a) with respect to any unpaid tax only after the Secretary has made reasonable efforts to enter into an installment agreement with the taxpayer and has exhausted unsuccessfully all procedural methods for the collection of said tax and is authorized by court order to make such levy.

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"(2) AUTHORITY AND STANDARD FOR ISSUANCE OF ORDER. --

"(A) AUTHORITY TO ISSUE ORDER. -- On request of the Secretary, the court order under paragraph (1) may be issued by any federal judge or federal magistrate within the district wherein the property (or right to property) to be levied upon is located.

"(3) STANDARD FOR ISSUING ORDER.-- A judge may issue an order under paragraph (2) only if --

"(A) the Secretary, by affidavit sworn to before such judge, establishes that the requirements of this section (other than this subsection) have been met, and

"(B) the judge determines that there is reason to believe that such requirements have been met,

"(C) the Secretary shall have proved, by a preponderance of the evidence, that the subject of the order is indebted to the United States and

"(D) such order may be sought only upon application on notice to the taxpayer, who, if he so chooses, may contest the granting of the order in open court.

(b) EFFECTIVE DATE. -- The amendments made by subsection (a) shall apply to any levy made after the date of enactment of this Act.

Property Exempt from Levy

"(a) IN GENERAL. -- Section 6334(a) (relating to property exempt from levy, in particular, subsection a(2)-fuel, provisions, furniture, and personal effects, and subsection a(3)-books and tools of a trade, business or profession) is amended by adding the following new paragraphs in substitution therefore:

> "(2) FUEL, FURNITURE, PROVISIONS AND PERSONAL EFFECTS. -- If the taxpayer is the head of a family, the fuel, provisions, furniture, arms for personal use, and livestock and poultry of the taxpayer used for domestic purposes.
>
> (3) BOOKS AND TOOLS OF A TRADE, BUSINESS, OR PROFESSION. -- Any property used in the conduct of a business, trade or profession of such individual from which income is derived to the extent that such income is taken into account under paragraph (9) as part of the applicable exempt amount of such individual.

(b) EFFECTIVE DATE. -- The amendment made by this subsection shall apply with respect to levies made after the ninetieth day after the day of the enactment of this Act.

Wages Exempt from Levy

"(a) IN GENERAL. -- Section 6334(d) (relating to exempt amount of wages, salary, or other income) is deleted and the following new paragraphs are inserted.

"(1) INDIVIDUALS ON WEEKLY BASIS. -- In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be --

(A) $200, plus

(B) $50 for each individual who is specified in a written statement which is submitted to the person on whom notice of levy is served and which is verified in such manner as the Secretary shall prescribe by regulations and --

(i) over half of whose support for the payroll period was received from the taxpayer,

(ii) who is the spouse of the taxpayer, or who bears a relationship to the taxpayer specified in paragraphs (1) through (9) of section 152(1) (relating to definitions of dependents), and

(iii) who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy under subsection (a)(8) for the payroll period.

For purposes of subparagraph (B)(ii) of the preceding sentence, "payroll period" shall be substituted for "taxable year" each place it appears in paragraph (9) of section 152(a).

(2) INDIVIDUALS ON BASIS OTHER THAN WEEKLY. -- In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any

applicable pay period or other fiscal period (as determined under such regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption or levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time as he were paid or received such wages, salary, and other income on a regular weekly basis.

(b) EFFECTIVE DATE. -- The deletions and substitutions made by this subsection shall apply with respect to levies made after the ninetieth day after the day of the enactment of this act.

Procedures Involving Taxpayers Interviews

"(a) IN GENERAL. -- Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SECTION 7518. PROCEDURES INVOLVING TAXPAYERS INTERVIEWS.

"(a) IN GENERAL. -- The interview of any taxpayer by an officer or employee of the Internal Revenue Service in connection with an audit:

"(1) Shall be conducted at a time and place mutually convenient to the taxpayer and the Service, provided that it is within 60 days of the receipt of the audit notice by the taxpayer, and

"(2) May be recorded at the option of the taxpayer.

An officer or employee of the Internal Revenue Service may record any such interview if he informs the taxpayer of such recording prior to the interview and provides the taxpayer with a transcript of such recording upon the request of the taxpayer and reimbursement for the cost of reproduction of such transcript.

"(b) SAFEGUARDS. -- An officer or employee of the Internal Revenue Service shall prior to any interview described in subsection (a) advise the taxpayer in writing --

"(1) That he has the right to the presence to an attorney, accountant and/or representative familiar with the return that is the subject of the interview; and

"(2) That any statement he makes may be used against him.

The taxpayer may waive the right to the presence of an attorney if such waiver is made voluntary, knowingly, and intelligently. If, however, he indicates at any time during the interview that he wishes to consult with an attorney or that the interview be discontinued there can be no questioning regardless of whether he may have answered some questions."

"(c) PROCEDURES. -- The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare a brief but comprehensive statement which sets forth in simple and nontechnical terms,

"(1) the rights of a taxpayer as are set forth in sections (a) and (b) during an audit;

"(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

"(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

"(4) the procedures which the Service may use in enforcing the Internal Revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens.

"(d) TRANSMISSION TO COMMITTEES OF CONGRESS. -- The Secretary of the Treasury shall transmit drafts of the statement required under subsection (c) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day. Any draft (or any revision of a draft) of the statement may not be distributed under subsection (c) until 90 days have elapsed from the date it was transmitted to such committees.

"(e) DISTRIBUTION. -- The statement prepared in accordance with subsections (c) and (d) shall be distributed by the Secretary of the Treasury to all taxpayers simultaneously with the [illegible] of a delinquency or an audit notice.

(f) CONFORMING AMENDMENT. -- The table [illegible] sections for such chapter is amended by adding at the end thereof the [illegible] item:

"SEC. 7518. PROCEDURES INVOLVING TAXPAYER [illegible]

(g) EFFECTIVE DATE. -- The amendments made by this section shall apply to interviews conducted on or after the date of the enactment of this Act."

Written Advice Given by Officers and Employees of the Internal Revenue Service Shall Be Binding

"(a) IN GENERAL. -- Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

SEC. 7519. WRITTEN ADVICE GIVEN TO TAXPAYERS BY AN OFFICER OR EMPLOYEE OF THE INTERNAL REVENUE SERVICE TO BE BINDING.

"(a) IN GENERAL. -- There shall be binding on the Secretary --

"(1) any return with respect to a tax under subtitle (A) prepared for the taxpayer by an officer or employee of the Internal Revenue Service acting in his official capacity to provide assistance to taxpayers in preparations of tax returns; and

"(2) any information, advice, or interpretation given in writing to the taxpayer by an officer or employee of the Internal Revenue Service acting in his official capacity.

"(b) EXCEPTION WHERE FAILURE TO PROVIDE ADEQUATE INFORMATION. -- Subsection (a) shall not apply to the extent there is a failur by the taxpayer to provide adequate and accurate information to the officer or employee preparing the return or providing the information, advice, or interpretation."

"(c) ORAL INFORMATION, ADVICE, OR INTERPRETATION. -- Prior to the giving of any oral information, advice or interpretation by an officer or employee of the Internal Revenue Service acting in his official capacity, the taxpayer shall be informed that said information, advice or interpretation is not to be considered binding on the Secretary unless it has been reduced to writing.

"(d) CLERICAL AMENDMENT. -- The table of sections for such chapter is amended by adding at the end thereof the following new item:

"SEC. 7510. WRITTEN ADVICE GIVEN TO TAXPAYERS BY AN OFFICER OR EMPLOYEE OF THE INTERNAL REVENUE SERVICE TO BE BINDING.

"(e) EFFECTIVE DATE. -- The amendment made by this section shall apply to the preparation of returns, and information, advice and interpretations, after the date of the enactment of this Act."

Installment Agreements Entered into by Officers and Employees of the Internal Revenue Service for the Collection of Tax Shall Be Binding

"(a) IN GENERAL. -- Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SECTION 7520. INSTALLMENT AGREEMENTS ENTERED INTO BY AN OFFICER OR AN EMPLOYEE OF THE INTERNAL REVENUE SERVICE FOR THE COLLECTION OF TAX SHALL BE BINDING.

"(a) IN GENERAL. -- There shall be binding on the Secretary --

"(1) any installment agreement entered into by an officer or employee of the Internal Revenue Service for the collection of tax, regardless of any change in the taxpayer's financial situation or ability to pay.

"(b) EXCEPTION WHERE FAILURE TO PROVIDE ADEQUATE INFORMATION. -- Subsection (a) shall not apply to the extent there is a failure by the taxpayer to provide adequate and accurate information to the Internal Revenue Service prior to the execution of the installment agreement.

"(c) DEFINITION. -- For the purpose of this subsection an Installment Agreement shall be defined as a written contract between the taxpayer and the Internal Service whereby the taxpayer agrees to satisfy an assessed tax liability at regular intervals over a definite period of time.

"(d) EFFECTIVE DATE. -- The amendment made by this subsection shall apply with respect to installment agreements entered into after the ninetieth day after the day of the enactment of this Act."

CITIZEN'S
CHOICE

NATIONAL FORUM ON TAX ALTERNATIVES

Washington, D.C. April 2, 1982

RESOLUTION

RESOLVED by the undersigned participants in the National Forum on Tax Alternatives,

That the Committees on Finance and Ways and Means schedule and conduct hearings on the subject of Tax Alternatives in order to provide for a more equitable, efficient and simpler system of taxation.

Witness our signatures this second day of April, 1982.

Dr. Herman Kahn

Dr. Richard Lesher

Honorable Jerome Kurtz

Senator Dennis DeConcini

Honorable Michael McKevit

Dr. Jack Carlson

Mr. Robert Ratton

Dr. Robert Hall

Mr. Thomas Bell

Mr. David Franasiak

Mr. Jack Marshall

Mr. Tim Haake

Dr. Irving Leveson

Honorable Don Alexander

Mr. Jim Wheeler

Mr. Thomas Donohue

Honorable Peter Weidenbruch

Dr. David McCarthy

Congressman Kent Hance

Mr. Lewis Uhler

Dr. Norm Ture

Dr. Edward Moscovitch

Mr. James Glassman

Mr. Peter Brimelow

Congressman Jack Kemp

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Chairman **Rangel**. Thank you. I will ask staff to put together a summary of the bill of rights, including the one offered by the Citizen's Choice, for the subcommittee members' consideration.

This simplified tax collection system, have you drafted it? Is anything reduced to writing?

Mr. **Bell**. Yes, sir. We will forward that to you. We have commissioned the Hudson Institute and Dr. Herman Kahn of that institute to do an overview study for us of the four principal alternative tax methods that have been suggested by economists and others over the years.

The National Forum will meet again in early July to review these four recommendations, and we will then try to select the best of those that we can. We will have another study on that, and we will, of course, forward all of that information on to the committees.

Chairman **Rangel**. Thank you, Mr. Duncan.

Mr. **Duncan**. I want to thank you. Although you were last, you may have been the best. Rather, close to last. We thank you for staying with us. You have been a good witness.

Mr. **Bell**. Thank you.

Mr. **Duncan**. Your alternatives, does that include your four alternatives?

Mr. **Bell**. Mr. Duncan, perhaps the most discussed right now is what has been called a flat-rate tax system, which would exempt the very poor, and have low marginal rates of taxation of a single rate for everyone, which is estimated under the Hall and Rabuska plan that has been produced by the Hoover Institute to be about 19 percent across the board and would create a little in excess of the revenues needed for 1982, for the 1982 budget.

The flat-rate tax system has a lot of advantages in that it doesn't penalize savings and investment, and in fact, makes those things more valuable to the individual.

The entire compliance form is about the size of a post card. We have attached a sample of that to our testimony and a news release, which I think is available here in the committee room.

It would encourage people to produce more, because the rate would stay the same. It would eliminate tax deductions almost in their entirety which we understand is a tough political battle to wage, but we think a necessary one.

You both know the billions and billions of dollars that are being diverted from worthwhile business and industry and cause today, in order to go into shelters and to try to avoid paying the high marginal rates that exist.

Other cash flow or consumption taxes, as they have been called, have been recommended, some combined with a value added, some that stand on their own. I don't claim to be a tax expert with regard to exactly how the perfect system should work, but I do have, honestly and seriously, I believe, from going to these 10 cities, from talking to these thousands of witnesses, that the Congress is not yet, though almost, quite aware of how serious the situation has gotten, how blatant people are now becoming about their willingness and in fact their industriousness to discover new ways to avoid paying their taxes, and if there is $125 billion in lost revenues this year, and there was supposedly $85 billion the year before that, it is easy to start adding those numbers up, and see how serious this problem could become very soon.

Mr. DUNCAN. We have had some research on that in the committee, and it shows that perhaps the middle-income taxpayers would pay a greater burden in the tax system than any other group. Do you find that true?

Mr. BELL. Yes, sir, very definitely, and I think that this middle-income taxpayer that was always the backbone of the system, the good, solid American that went to work every day and who wanted to pay their fair share and do their part, as inflation has pushed them up into the 30- 40-, and 50-percent brackets, they literally have less take-home pay, though they are making substantially more money they can do less for their family, and it has developed a very bad feeling among these taxpayers.

Mr. DUNCAN. Our research shows if they are penalized more, they would pay more than they are paying now.

Mr. BELL. Under a flat rate?

Mr. DUNCAN. Yes.

Mr. BELL. Well, sir, what we have discovered and I want to reemphasize that these are preliminary figures, we have discovered that on 1980 data, which is the last data that we had available to us, that the middle-income taxpayer by and large would be much better off in terms of spendable dollars.

There are marginal rates that might be a little bit higher, but the reason that their marginal rate might be a little higher is that they have brought their marginal rate down under the present system through the various and sundry deductions that are available to them. If it was real dollars we are talking about they would have more money in their pockets, and as we have gone around talking about the system to middle-income taxpayers, steel mill workers and auto plant workers prior to their present problems admittedly, they were very enthusiastic about a system that they knew from the first day what their tax rate would be for that year, and they didn't have to play what they felt were the duck's games that they are playing now.

Mr. DUNCAN. How would you meet the objections of the educational institutions and the charitable institutions that would not receive deductible contributions under that system?

How would you answer the argument of educational institutes that they would not receive as much in donations?

Mr. BELL. You heard the same questions I heard. This year when you reduced the marginal rate from 70 to 50 percent the charitable institutions and universities said, "My goodness, this is going to dry up all of our alumni giving and we will be in big trouble." I saw a study last Thursday that said giving for the last 6 months is up 16 percent over the previous year. I don't think people give money to charitable organizations to avoid taxes. They invest in tree farms, oil and gas leasing, various and sundry other leasing techniques, and tax avoidance charitables that are available, but the charitable giver is a charitable giver. If they have the money, they will give it.

Mr. DUNCAN. Thank you.

Chairman **Rangel**. Mr. Klepner, thank you for your patience, and Mr. Connery, national president of the National Treasury Employees Union.

Good to see you again.

STATEMENT OF VINCENT L. CONNERY, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, ACCOMPANIED BY JERRY KLEPNER, DIRECTOR OF LEGISLATION, AND PAUL SUPLIZIO, LEGISLATIVE CONSULTANT

Mr. **Connery**. Thank you. It is a pleasure on my part as well. I am accompanied here today, on my far right, by Paul Suplizio, a legislative consultant for NTEU; and on my immediate right by Jerry Klepner, NTEU's director of legislation.

I have a statement which has been submitted, and I would like to simply summarize that statement, Mr. Chairman.

Chairman **Rangel**. Without objection, Mr. Connery.

Mr. **Connery**. I have sat here all afternoon and during much of the day heard IRS upbraided by various and sundry people. I have been, for 15 years, the national president of the National Treasury Employees Union, which represents virtually all IRS employees nationwide as well as about 97 percent of the other Treasury bureaus.

Today, as in most days, you wait a long time to hear someone say anything complimentary about an IRS worker. And we don't get much in the way of support. I have been coming——

Chairman **Rangel**. Except from this committee?

Mr. **Connery**. That is right, Mr. Chairman. That is right. I have been testifying on behalf of our union for many years. I have been making much of the same recommendations year after year. And much of what is in our statement this year was in my statement back in 1968. The fact of the matter is that the most pressing need that IRS has at the present time is additional money. They simply do not have enough money to make that system work.

I know that the Commissioner is under great constraints and has to come up here, as did his predecessors. I have now been through, I think, seven Commissioners of Internal Revenue during my term of office. And they have to come up and say that whatever OPM or OMB says this is what they can do and that they can do a great job with this money.

Years later when you run into them on the street, they say, "you know how the system works, Vince. You have to say that." But the fact is this system is badly in need of funding. This administration, as well as prior administrations, have not been providing for the growth in the taxpayer population. They have not been taking any cognizance of the growing resistance of the taxpayer population to which we made reference.

I have clear reference to that in my 1970 testimony, because you could see it coming. You could see this coming in the 1960's when I was a revenue agent on active duty. And as several people, like Mr. Anderson, and Mr. Bell perhaps mentioned, that many people do not want to pay taxes no matter what the tax rate is.

And speaking of tax rates, and so forth, I can well recall as a younger IRS agent hearing Coleman Andrews, the IRS Commissioner, circa 1954, say that he was going to simplify the taxpaying system. The fact of the matter is, and I wish anybody the best of luck, but this country has an incredibly complex economy. What is one man's deduction is another man's money.

You can't simplify, in my judgment, a system this complex and make it any more understandable to citizens or any fairer to its citizens. This system has been workable over the years, although it has had its fits and starts, of course. It has some problems. But the fact of the matter is that they deal, as witnesses have remarked, with millions of people every year. There are a number of problems—I know your committee, every time they have a meeting like this, you get all of the looneybins in the country. But the fact of the matter is that this system works well when you consider they are working so short handed down there. And I might mention, the last 6 years, I believe, starting with 1976, has had different major revenue acts.

Now just imagine yourself as a revenue agent out there in the field or maybe giving a businessman a call on the phone to tell him I have his 1979 and 1980 returns assigned to me for examination. For heaven's sake, I am dealing with a couple of different Revenue Acts, all in the same audit. On top of that, there is a host of legislation that has been legislated into the Tax Code. This presents incredible complexities.

And more, when you close a case, take the agreement, if you get an agreement for the taxpayer and close a case for the IBM setup, it takes as much to fill out the various blanks as it did years ago to work the case. This is a very, very complex age we live in.

And we are dealng with an increasingly mean streak populace. There are a lot of people out there. I said that last year when I was here, I remember. And some of my good friends here confirmed that today.

I would ask anybody how would you like to be working at IRS and have 22 million of them out there? You know it is very, very difficult. And the IRS agent, Professor Storer, for example, said that the IRS agent is well taken care of. He compares IRS with all of the accounting firms and so forth.

I say to you, absolute nonsense. Nonsense. The average of the CPA firms, the public accounting firms in Professor Storer's own area in Los Angeles, start at $16,000, $18,000 a year. IRS starts from grade 5 and grade 7, $10,000, $12,000 a year. There is no comparison.

And on top of that you consider where that 5 or 7 gets to go. To grade 13. You are talking about a $30,000 a year job, grade 13, handling the biggest complex audits in the United States. You are auditing Texaco, Ford Motor Co., United States Steel. Grade 13, big deal. Then have everybody throwing darts at you and everything else. So it is a very, very tough job and no one is waxing right on it.

It is amazing. It is amazing that the quit rate is only 12 percent or thereabouts. And that would break most public accounting firms if they had that kind of a quit rate. IRS is running one of the biggest schools in the United States for the public accounting firms and the law firms. These guys go in there, get all of this tax knowledge, and anybody with smarts could get to be handling some pretty responsible stuff very quickly. And before long, bang; they are just snapped up by these public accounting firms and by these law firms just as quickly as you can bat an eye.

Friends of mine on the outside who are executives with big 8 public accounting firms have told me that they will make an offer to anybody with IRS that is worth anything. Because the firms are all in big, big trouble. They are worried sick about all of the legal decisions regarding their liabilities on audits.

These big 8 accounting firms are worried sick. Their shortage is where the work is being done, at the audit level, not in the big suite, executive office's of the firms, but where the work is being churned out.

The shortage is really tough, and anybody that shows any smarts at all, they are grabbed up. IRS is losing them right and left; their best men are being made big, big offers and they are going for it right and left.

I didn't hear that touched on today and I wanted to mention it, because they are really hurting on that. And so, our organization does appreciate the understanding and cooperation that this committee has always given. So, in closing, Mr. Chairman, let me say that until the IRS is granted resources equal to its responsibilities, it is fruitless to rail against the policy of the Service.

The problems associated with the IRS cannot be resolved until the agency is funded at an adequate level. We ask this subcommittee to do all in its power to assure that the tax system of this country can be allowed to function in an efficient and just fashion.

We thank you very much for this opportunity.

[The prepared statement follows:]

STATEMENT OF VINCENT L. CONNERY, NATIONAL PRESIDENT, AND JERRY D. KLEPNER, DIRECTOR OF LEGISLATION, NATIONAL TREASURY EMPLOYEES UNION

Mr. Chairman and members of the Subcommittee:

I am Vincent L. Connery, National President of the National Treasury Employees Union. Accompanying me is Jerry D. Klepner, NTEU's Director of Legislation. Our union is the exclusive representative of approximately 120,000 Federal workers including virtually all employees of the Internal Revenue Service.

On behalf of the thousands of dedicated men and women who collect the revenue of the Federal government, I appreciate the opportunity to express our union's views on the policies and procedures employed by the IRS in carrying out our nation's tax laws and their impact on the American taxpayer.

During Fiscal Year (FY) 1981, IRS employees were responsible for collecting over $600 billion or 90 percent of the receipts needed to sustain our defense and to operate the Federal government. The fair and efficient administration of the tax laws is essential to the health of our society and to achieving a balanced budget.

Because IRS employees are in day-to-day contact with taxpayers, we have first hand experience with the problems confronting our system of voluntary compliance. In recent years we have expressed our concerns about the negative impact that the Service's audit and collection policies have had on the honest taxpayers of this country. We have also pointed to a burgeoning underground economy, widespread use of abusive tax shelters, a growing number of tax protesters who evade their obligations, more and more delinquent tax accounts, and over 2 million citizens who do not even bother to file a tax return. We stated our conviction that these factors were undermining voluntary compliance by fostering the belief that our tax system is unfair.

The reasons why these problems exist are many and varied, but there is one underlying cause of virtually all these ills, i.e., the lack of adequate resources for the IRS.

For years we have taken the position that without sufficient funding, the IRS will not be able to carry out its mission in a manner befitting its importance to our nation's economic well-being. In the Examination and Collection Divisions in particular, inadequate staffing has caused the implementation of policies which have a severe adverse impact on employees and taxpayers alike. In addition, the Administration's FY 1983 budget request for these divisions as well as Taxpayer Service will only exacerbate these problems.

We have testified on numerous occasions concerning the inordinate pressure that has been placed on Revenue Agents, Tax Auditors, and Revenue Officers to complete cases and reduce their inventories in the shortest possible time. In the Examination Division, such pressure is manifested in management's insistence that employees conduct audits quickly and bring the backlog of cases down to a "manageable" level. As a result, Revenue Agents and Tax Auditors are unable to devote the proper amount of attention to audits. Instead of taking the time in examining a return to thoroughly pursue tax deficienies, these employees must very often dispose of their cases rapidly. In effect, Examinations Division employees must, in many cases, simply "take the money and run."

The effects of this policy are extremely negative. Because employees can only give cursory attention to many audits, untold amounts of duly owed revenue can be lost in a given year. This is money which could be extremely helpful in reducing the Federal deficit and promoting a balanced budget. In addition, the failure to examine returns thoroughly encourages individual dishonesty, as more people find that they can get away with cheating. Conversely, persons who make an honest mistake in filing their taxes may receive short shrift from the IRS in seeking to resolve their problems.

The effects of production pressure can also be found in the Collection Division where the impact on taxpayers can be much more dramatic. In Collection, the policy of closing cases quickly has, in the past, led to the precipitous use of seizure and levy against the property of taxpayers. In 1980, we testified before the Senate Subcommittee on Oversight of Government Management that IRS employees in many parts of the country were under severe management pressure to close cases through seizure actions. In some offices, there even existed a quota system wherein employees were directed to take a certain number of these actions per month.

Fortunately, the IRS, partly as a result of the 1980 hearings, seems to have largely abandoned this policy. In talking to our members around the country - even in those where seizure pressure was great - we have been told that the emphasis on, and the number of, such actions has decreased markedly.

Similarly, production pressure on Collection employees often results in the loss of important revenue. Employees are pressured to close cases quickly because of the incredible unworked inventory and, as a result, many cases which warrant further collection activity are not pursued, causing a substantial loss of revenue to our government.

What is not so easily recognizable is that the root cause of the problem can be summed up in one word - resources. If the Examination Division were staffed at adequate levels, employees would be free to devote attention to cases in relation to their dollar value. More revenue could be collected and taxpayers would be assured of fairer treatment. If the Collection Division were given greater resources, Revenue Officers could secure larger amounts of uncollected taxes through responsible and diligent methods since there would be more of them and the pressure to close cases would be greatly relieved.

We thought that a prudent Administration would take these factors into consideration during Congressional consideration of the FY 1982 budget last year. We were wrong. Only one thing was on the mind of the Administration's chief budget officials: to reduce direct government spending at all costs, even if it meant a loss of vital revenue needed to sustain our government.

The Administration's budgetary antics supplanted the atmosphere of calm deliberation which should prevail in these matters, subordinated the views of expert Congressional committees to a single referendum of both Houses, and indiscriminately wielded the proverbial meat-ax to several activities that have been forced to seek emergency supplemental appropriations.

These tactics have plunged our tax system to its lowest level of performance in history. During the current Fiscal Year, 3.5 million fewer taxpayers will be assisted by the IRS despite passage of last year's new tax law, 2 million fewer returns will be examined causing audit coverage to fall to 1.58 percent, the backlog of cases under administrative appeal will almost double to 50,000 cases representing $14 billion in unresolved tax deficiences and penalties, and the number of deliquent accounts receivable will rise to 1.5 million worth $5 billion in uncollected taxes. The Service will not even be able to process about half of the supplemental returns received, such as Forms 1040-X, amended tax returns. It will be unable to verify compliance with extensions of time to file individual tax returns, resulting in a revenue loss of $200 million. It also will lose an estimated $30 million in additional taxes by processing fewer information returns and not sending out notices to taxpayers who have underreported their income or failed to file.

For some time, there has been evidence of concern in the Congress that our tax system was under severe strain. During consideration of the FY 1982 Treasury Appropriations bill, the Chairman of this Subcommittee wrote to the Chairman of the Treasury Appropriations Subcommittee to strongly recommend an additional $38 million and 1,500 staff-years over the Administration's budget request. Referring to an Oversight Subcommittee hearing on May 11, 1981, you stated, Mr. Chairman:

> "Every witness at our Oversight hearing, including -- albeit reluctantly -- the IRS and the Treasury Department, testified that increased IRS staffing over the levels proposed in the FY 1982 Budget request is clearly needed. Information presented by the witnesses, statements and data included in the IRS FY 1982 Budget Submission to Congress, and Treasury Department documents (1977-1979) submitted to the Office of Management and Budget in appealing IRS budgets, all clearly demonstrate that with the proposed resource levels IRS will not be able to keep pace with its obligations in FY 1982. This means that IRS will not have the resources that will enable it to fully and efficiently assess and collect taxes legally due and owing the Federal Government. Nor will IRS be able to provide taxpayers with prompt and meaningful assistance or to devote appropriate attention to taxpayer safeguards or, in the final analysis, to maintain and promote voluntary compliance."

The Chairman made his recommendation for 1,500 additional positions after receiving evidence that the IRS "maintenance budget" submission to OMB (to maintain operations at the 1981 level) required 93,581 staff-years. Even with the 1,500 positions, IRS was still below the maintenance level by 4,000 staff-years. We note that this letter was signed by six other members of the House Ways and Means Committee.

Subsequently, the House Treasury Appropriations Subcommittee reported out a measure allowing $38 million and 1,500 positions above the Administration's request, noting that this increase "does not even fully cover the increased cost that the Internal Revenue Service absorbed in fiscal year 1981." Administration of the Crude Oil Windfall Profit Tax Act of 1980 alone required IRS to absorb 875 positions and $20 million, which was taken from other activities.

The Treasury Appropriations bill for FY 1982 was thereafter passed by the House and sent to the Senate. There it was ensnared in a new Administration ploy to circumvent the normal appropriations process by embodying all unpassed appropriations bills in a single bill, the Continuing Resolution, and imposing a further across-the-board cut below the Administration's original budget request. This action had the effect of wiping out the entire 1,500 position increase made by the House (and a 1,340 position increase originally reported out by the Senate Appropriations Committee), plus imposing a new cut of $100 million and 3,600 staff-years.

Besides making a shambles of tax administration, this decision cost the Federal government $700 million in revenue. It also made proper budgetary planning for the year virtually impossible, due to the uncertainty created by the expiration of the Continuing Resolution in the middle of the fiscal year, March 31, 1982. Combined with other actions, this has had an extremely adverse impact on employee morale, contributing to the highest attrition rates in a decade in key IRS occupations (Revenue Agents, Tax Auditors, and Revenue Officers). From virtually every perspective, 1982 will be the worst year in the history of our voluntary compliance system.

It is against this background that we must evaluate the Administration's most recent budget proposals. These proposals:

a. restore 1,000 staff-years in FY 1982, by means of emergency supplemental appropriations; and

b. add 3,300 staff years in FY 1983.

In other words, the Administration is now proposing to give back 4,300 of the 5,100 positions it took away last December from the minimum level that competent authority in the House believed necessary for a sound system of tax administration.

These 4,300 staff-years, combined with 700 positions absorbed from other parts of IRS, are the ingredients in a 5,000 staff-year "revenue initative" which forms the centerpiece of the latest IRS budget. Of these positions, 1,000 are to be allocated to Examinations to improve compliance, and 4,000 to Collections to reduce the large backlog of taxpayer accounts receivable. IRS estimates that these additional staff-years yield $2 billion in revenue.

In its justification for the "revenue initiative," the Administration suddenly seems to have discovered the existence of the underground economy, abusive tax shelters, uncollected taxes, and other threats to voluntary compliance. We welcome this awakening. We also commend the Administration for advancing the revenue initiative and for the other positive aspects of this budget.

Nevertheless, there continues to be glaring deficiencies in the budget proposal, especially in Taxpayer Service, Returns Processing, and Examinations and Appeals. Ignoring congressional directives over the past decade, Taxpayer Service is cut 40 percent below the FY 1981 level. Returns Processing is kept 1,200 positions below last year.

Despite some increase in staff, Examinations will be 2,000 positions short of the number required for an audit coverage of 2 percent -- the minimum our country can tolerate without courting disaster in taxpayer compliance. And, while the Administration's proposal will reduce the enormous backlog of cases in Appeals somewhat, it still leaves an inventory of 42,000 cases at the end of FY 1983 compared to 50,000 a year earlier.

In sum, the Administration's budget proposals restore 4,300 of the 5,100 positions considered to be the minimum requirement by the House (4,900 by the Senate Appropriations Committee in its original report) last year. It thus continues to fall short by 600-800 positions below the minimum needed for FY 1982, and 4,600 to 4,800 positions below the "maintenance" budget IRS submitted to OMB for FY 1982. It makes no allowance for the increased number of returns and refunds to be processed; and urgent needs in Taxpayer Service and Examinations and Appeals.

In the remainder of our statement, we will consider these and related budget issues in greater detail. Before turning to these matters, it is appropriate to review recent evidence of the taxpayer compliance gap which sheds new light on the challenge IRS faces today.

Taxpayer Compliance Gap

Over the past few years, we have consistently maintained that the level of tax compliance in our country is falling. Our view has found support in studies by the General Accounting Office, whose position was stated by Mr. William J. Anderson in recent testimony before a House Government Operations Subcommittee:

> "There is a trend toward contempt and abuse of the system which seriously undermines the basic concept of voluntary compliance on which the system depends. Extensive evidence is available to show that noncompliance among both corporate and individual taxpayers is a serious problem and is getting worse."

A useful way to summarize what non-compliance is costing the government is by means of the "taxpayer compliance gap." The gap measures the difference between the amount of taxes owed by taxpayers and the amount voluntarily paid. The individual tax compliance gap, as recently estimate by the staff of the Joint Committee on Taxation based on various IRS studies, is shown in Table I and Chart I appended to the end of this statement.

The individual tax compliance gap is estimated at $72 billion for Tax Year 1981 (Fiscal Year 1982). If this amount were collected, the projected Federal deficit of approximately $100 billion for FY 1982 could be reduced to about $28 billion. If an additional $4 billion were collected by closing the estimated compliance gap for corporate income, the FY 1982 deficit could be further reduced to $24 billion.

Table I compares the growth of the tax compliance gap with personal income in the total economy for the years 1976-1985. What is striking is that the gap appears to be growing at almost twice the rate as total personal income. Moreover, while individual tax receipts are projected to grow at 17.4 percent per year from 1976 to 1985, the compliance gap is projected to grow at 27 percent per year.

Such projections would seem to put an end to the supply-side theory that lower marginal tax rates, by themselves, would serve to improve compliance. Compliance is worsening despite the Reagan tax cut, and perhaps because of the perception that the cut benefits the rich. Certainly sound tax administration and the perception of fairness have more to do with compliance than the tax rates themselves.

Of the $72 billion in revenue loss attributed to individual taxpayers in Tax Year 1981, $47 billion results from underreporting of income, $12.3 billion from overstated deductions and credits, $4.6 billion from non-filers, and $8 billion from illegal sources such as drugs, gambling and prostitution. About three-fourths of the total (excluding illegal sources) is accounted for by underreporting of income.

Further evidence of the overall decline in compliance is provided by the IRS Taxpayer Compliance Measurement Program (TCMP). Compliance rates for the tax system overall, and for seven classes which IRS has been tracking since 1963, are given in Table II found at the end of the statement. The table shows that overall compliance stood at 92.3 percent in 1976 (the latest year for which TCMP data is avialable). In other words, taxpayers voluntarily assessed themselves about 92.3 percent of their total tax liability. However, this compliance rate represented a decline from 94.3 percent eleven years earlier. A small change in compliance rates can mean quite a large loss of income. In this case, the decline of 2 percentage points in compliance represents a loss of $9 billion in tax assessments in 1976.

It is important to note that other IRS studies have shown that TCMP can successfully detect improper deductions and other offsets to income, but is able to detect less than one-half of unreported incomes. Yet unreported income accounts for almost three-fourths of the tax compliance gap. A relatively high TCMP compliance rate should not be a cause for complacency.

For four of the seven classes measured by IRS (see Table II), compliance rates had fallen below 90 percent in 1976. For example, compliance among small business taxpayers with under $10,000 income fell from 79.2 percent in 1965 to 43.2 percent in 1976. This means that these taxpayers paid only 43 percent of the taxes they owed in 1976.

The GAO has analyzed TCMP data for small corporations, those with assets of up to $1 million, between 1969 and 1978. Compliance for this group dropped almost 10 percentage points, from 83.1 to 73.3 percent during this period. For all corporate taxpayers measured through TCMP, the estimated tax loss was $2.3 billion for 1978.

When we look at the various sources of income, the decline in compliance is equally striking:

-- A hefty 36-40 percent of all self-employment income is not reported by taxpayers, according to the IRS unreported income study completed in 1979.

-- 35-50 percent of all rents and royalties are not being reported, according to the same study.

-- 44 percent of capital gains income was not reported in 1981, according to a staff estimate of the Joint Committee on Taxation.

-- 15 percent of all dividends, and 11 percent of interest income escaped taxation in 1981, according to the same Joint Committee estimate.

The following table shows that uncollected individual taxes, as projected by the Joint Committee on Taxation, are quite large in relation to individual tax receipts.

INDIVIDUAL TAXES COLLECTED AND UNCOLLECTED
1976 - 1985 (IN $ BILLIONS)

TAX YEAR	COLLECTED	UNCOLLECTED	ESTIMATED INCOME ESCAPING TAXATION
1976	132	28	200-300
1981	286	72	230-340
1982	299	77	260-400
1983	305	81	290-430
1984	323	88	320-480
1985	362	102	

If the compliance gap for the years 1983-1985 were reduced by one-half, $135 billion in additional revenues would accrue to the treasury of our country. This amounts to almost 30 percent of the Administration's projected current services deficit for the period. The "current services" deficit is the deficit that would result if no cuts in Federal programs below current levels were made.

Along with the general decline in compliance in recent years, several special compliance problems have emerged. Among these are (1) abusive tax shelters, (2) tax protesters, and (3) overclaiming exemptions on Forms W-4.

-- IRS had 248,000 tax returns involving abusive tax shelters under examination at the end of FY 1981, containing about $5 billion in questionable deductions. This was 75,000 more returns than a year earlier. Because many tax shelters involve limited partnership agreements, IRS has doubled the audit coverage of partnership returns to about 17 percent for returns showing more than $25,000 loss. IRS estimates that abusive tax shelters cost the government about $3.6 billion annually in lost revenue. During 1981, IRS recovered only $593 million of this amount through tax shelter cases closed.

-- Illegal tax protesters are those who advocate or participate in schemes that result in tax evasion. IRS estimates that the number of protester returns filed in 1981 totaled about 27,300--a 283 percent increase from 7,100 in 1978. Only about half of these returns were under examination as of June 30, 1981. If allowed to proliferate, such schemes can have a corrosive effect on our entire tax system. It is imperative that IRS deal promptly with such individuals to serve as a deterrent to others.

-- IRS has devoted about 700 staff-years to a program to prevent overclaiming of exemptions on Forms W-4, witholding allowance certificates. Under the program, IRS may reject a W-4 filing and specify a limit to the number of exemptions an employee may claim. IRS has had to monitor continued illegal filings by employees even after they were notified their filing was unacceptable.

In sum, our system of voluntary compliance is eroding before our eyes. The tax compliance gap will almost triple from $27 to $81 billion between 1976 and 1983. Most indicators of tax compliance are declining. An increasing percentage of personal income is not being reported. Abusive tax shelters and protesters are proliferating, and many of these are playing the "audit lottery"--gambling they will not be examined.

The existence of compliance problems of this magnitude is totally unnecessary. IRS has the tools in the form of document matching, nonfilers identification, and audit techniques needed to attack the problem of underreported income. What is needed are adequate resources to deal with tax shelters, tax protestors, underreporting and non-filing directly; and second to ensure a sufficient IRS presence among taxpayers to stem the decline in overall compliance so the gap will not continue expanding.

The first approach requires expansion of the information returns, non-filers, and special compliance programs. The second requires additional resources to improve audit coverage and to continue a strong emphasis on taxpayer services. The deterioration in compliance that we are witnessing stems in large measure from the generally inadequate level of resources provided IRS in recent years. We would like to turn now to a discussion of this issue.

Overall Level of IRS Resources

As more people enter the labor force, the number of taxpayers increases and so do the number of tax returns filed. Without changing the tax law, this basic workload is uncontrollable. A growing number of returns must be processed, refunds scheduled, audits conducted, and accounts collected. At the same time, the increasing complexity of our tax laws adds to the basic workload by making the processing of returns more time-consuming.

IRS resources have consistently fallen behind workload, as measured by the number of returns filed and refunds scheduled, for the past decade. This is demonstrated graphically in Chart 2, which shows the trend in IRS workload and resources since 1972. The total of all returns filed (primary, supplemental, and information documents) will increase 63.5 percent from 1972 to 1983. Individual tax refunds scheduled will increase 46 percent. In contrast, total IRS obligations in constant 1972 dollars will increase only 17 percent, and total staff-years by 23 percent in the same period.

The problem is particularly accurate at the present time. Between Fiscal Years 1982 and 1983, the total number of returns will

13 percent, and the number of refunds scheduled will rise 11 percent. However, under the Administration's budget proposal, IRS staff-years and obligations in constant dollars will rise only 3 percent during the same period. Simply stated, a workload-resource gap of 8-10 percent will be created in just two years.

Of course, some of this shortfall can be offset by productivity gains. But it is important to keep in mind that the workload-resource gap amounts to about 6,900 staff-years while the IRS can normally identify no more than 1,000 staff-years saved annually from improved productivity, according to budget documents. This still leaves a gap of 5,900 staff-years. If OMB had accepted the IRS "maintenance" budget of 93,600 staff-years for FY 1982, IRS would be in a much better posture to close this gap. Instead, even with the recent "increases" for FY 1983, the IRS staffing remains significantly behind the over-all growth in workload.

This "stop-and-go" policy has had a highly disruptive effect on the Service's operations. According to the testimony by GAO before the House Government Operations Subcommittee cited earlier:

> "This ratcheting of staffing levels makes it extremely difficult to develop well-founded plans for acquiring, training, and focusing human resources on the multi-faceted task of administering the tax system. A larger and more consistent level of resources to keep pace with growing demands on the tax system appears in order."

Taxpayer Service

The most serious deficiency in the Administration's proposal for FY 1983 is the reduction of 2,200 positions in Taxpayer Service from the level of FY 1981. In effect, about half the positions provided for the Administration's "revenue initiative" are to be taken at the expense of taxpayers who have difficulty comprehending the tax laws.

Our voluntary compliance system depends upon each citizen's understanding the tax law and assessing his/her own tax. The return has become more complicated and difficult to understand as the law has become more complex. This problem was highlighted by a "reading power" study of 1974 individual income tax forms and instructions funded by the former Department of Health, Education and Welfare. The study concluded that a taxpayer would have to read at the college graduate level to be able to understand the tax instructions without assistance.

Taxpayer Service has evolved in response to the need for tax assistance as recognized long ago by Congress, the public demand for such assistance, and the basic tenet that taxpayer assistance fosters voluntary compliance. The Federal government has a responsibility to provide this assistance as an essential ingredient in the administration of the tax laws. The Reagan Administration's proposal would reduce the number of taxpayers assisted to 17.9 million in FY 1983, compared to 44.8 million in FY 1981 -- a reduction of 60 percent. Only 34 out of 100 taxpayers requesting assistance would be helped in FY 1983, compared to 89 out of 100 in FY 1981.

The situation is depicted graphically in Chart III. The number of taxpayers requesting assistance is a conservative estimate based upon IRS studies of demand for taxpayer services. While this number rises gradually to 52.7 million in FY 1983, the number actually assisted peaks in FY 1981 and then falls sharply due to the Administration's budget cuts.

The IRS has confirmed that the Administration's drastic cuts will cause it to completely re-structure the Taxpayer Service program in FY 1983.

Toll-Free Telephone Assistance.

IRS has traditionally relied upon toll-free telephone assistance as the most efficient means of responding to taxpayers' questions. In FY 1982, approximately 82 percent of the taxpayer asssitance workload will be handled by telephone. IRS expects to receive a total of 34 million calls, of which an estimated 27 million will involve tax law questions.

In 1979, IRS estimated that 81 percent of taxpayers who sought assistance actually reached an assistor. By contrast, only 70 percent of taxpayers attempting to contact IRS by telephone got through to an assistor in 1981. According to a survey by GAO this year, for each 100 telephone calls made to IRS, only 72 result in contact with an IRS assistor who correctly answers a question. The remaining 28 calls either do not get answered, get cut off, or result in erroneous answers. GAO also found that taxpayers are able to reach IRS on their first call only 61 percent of the time. Taxpayers who are willing to make multiple calls have an 86 percent chance of reaching an assistor within a total of five calls.

It is clear from this data that the timeliness and availability of toll-free telephone service has seriously deteriorated. The system is in need of much improvement. However, the Administration's response has been to propose virtual elimination of toll-free telephone assistance in FY 1983, limiting such service to answering account questions only (e.g. status of refund and amount owed). Tax law questions, which accounted for 27 million inquiries last year, would no longer be answered. Taxpayers would be expected to find the answer themselves in an IRS publication. As a result, only 12.6 million calls would be answered in FY 1983, compared to 36 million in FY 1981.

An IRS study has found that 38 percent of the taxpayers who contact IRS by telephone have adjusted gross incomes of $15,000 or less. About 11 million taxpayers who had tax law questions fell into this category in FY 1981. These taxpayers, who would have more difficulty understanding an IRS publication and would have less financial ability to turn to a commercial preparer, would probably go unserved if toll-free telephone assistance were curtailed as the Administration proposes.

Such a severe cut could also be expected to impact adversely upon voluntary compliance. In an October 29, 1981 memorandum to the Deputy Secretary of the Treasury, the Commissioner of Internal Revenus stated that if IRS did not provide answers to tax law questions, "large numbers of taxpayers can be expected to interpret the law in a way favorable to themselves, with little likelihood of detection", and " a significant decline in voluntary compliance and a concurrent decline in revenues may result."

Walk-In Assistance

IRS plans to absorb the FY 1983 reduction in Taxpayer Service resources mainly through curtailment of toll-free telephone assistance, so that walk-in assistance can be maintained. However, the number of walk-in offices and some walk-in assistance activities will be curtailed. As a result, the number of taxpayers obtaining such help will drop from 8.7 million in FY 1981 to 5.2 million in FY 1983, a reduction of 40 percent.

In FY 1982, walk-in assistance will account for 18 percent of the taxpayer service workload, or 7 million contacts. IRS studies have found that 61 percent of taxpayers receiving walk-in assistance have adjusted gross incomes of $15,000 or less. About 98 percent of the 2.6 million taxpayers (out of 8.7 million walk-in contacts) requiring return preparation assistance in FY 1981 had adjusted gross income of $15,000 or less.

Under the ruberic of walk-in assistance, IRS includes such programs as helping taxpayers prepare their own tax returns (self-help return preparation), preparing tax returns for taxpayers (direct return preparation), reviewing returns prepared by taxpayers (return review) explaining correspondence sent by IRS to taxpayers, and answering tax law questions.

In the area of return preparation, IRS assisted 2 million taxpayers through self-help preparation, 344,000 through return review, and 175,000 through direct return preparation and return review assistance, except for physically handicapped persons and taxpayers who demonstrate an inability to use self-help.

IRS has also significantly reduced the number of walk-in offices. In FY 1982 it had 615 walk-in offices compared to 829 in FY 1981, a 26 percent reduction. The closing of walk-in offices, coupled with the curtailment of return preparation assistance, will impact mostly on those with low incomes -- the poor, the young, and the elderly. Rural areas will also find access to walk-in service reduced, at the same time that toll-free telephone assistance is being curtailed.

The Service is running a major risk in endeavoring to maintain walk-in programs while eliminating telephone assistance for 27 million taxpayers. A large number of these taxpayers may decide to seek help from the nearest walk-in office, resulting in inordinately long waiting lines. As the lines lengthen and taxpayers become exasperated, IRS employees will be subjected to verbal and possibly even physical abuse. We cannot think of anything that could injure employee morale, or turn the taxpayers against the system, more than the unwillingness of the Federal government to project a friendly, helping image to the citizens of this country.

The cutback in taxpayer assistance will have a serious negative impact on voluntary compliance. Coming at a time of increased evidence of doubts about the fairness and evenhandedness of the system, it could deal a psychological blow to the taxpaying public from which we might not recover. The willingness of taxpayers to correctly assess their tax, as well as their ability to do so through correct understanding of the tax laws, will be undermined if taxpayer assistance is curtailed.

It is especially important that the habit of compliance be fostered in our young people. How can this be achieved if their efforts to obtain assistance are to no avail?

It could be argued that a large proportion of those who come to the IRS for assistance are in lower income groups, and do not account for much revenue in the first place. This would be a false logic. It is not in the nation's interest for any substantial group of citizens to become disaffected with so vital an institution as our tax system.

The Commissioner states that IRS will emphasize its volunteer assistance programs in order to partially offset the decline in service from IRS employees. Significantly, the Commissioner makes no claim that these programs -- the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs -- could fill the gap, for they in no way would be able to do so. While these are worthy programs with worthy goals (assisting the elderly, handicapped, minorities, and those with language difficulties), the two programs together assisted only 372,000 taxpayers in FY 1981. This is far less than the 34 million taxpayers who will be unable to obtain assistance in FY 1983 under the Administration's budget.

IRS also believes that taxpayers can find answers to their questions from the Service's many publications. Yet, a 1977 study by the Roper Organization found that half of those who went to a professional preparer for assistance did so because the IRS forms and instructions were too difficult to understand. In a 1978 study, GAO also concluded that Form 1040 packages were written at a reading level beyond that of many taxpayers. GAO also noted that educational data on the elderly and disadvantaged indicates that they may have more severe problems in reading and understanding the 1040 instructions than taxpayers in general.

IRS is by no means certain that a reduction in Taxpayer Service will yield a saving for the government. The reduction may rebound in the form of higher costs in other parts of the IRS budget -- costs of correcting errors and of obtaining returns of non-filers. GAO is of this opinion. It states:

> "But it is also possible that some taxpayers may or may not file returns containing inadvertent errors or errors resulting from personally favorable tax law interpretations. IRS, therefore, could conceivably face a situation where return perfection and collection costs exceed comparable prefiling assistance costs."

By using the toll-free telephone system solely to answer questions on taxpayer's accounts, IRS is saying that it will answer questions only after a return has been filed. Yet 82 percent of the calls it now receives are questions about tax laws and return preparation -- precisely those questions that will not be answered next year. Given this situation, errors on returns are bound to rise significantly and entail significant loss of revenue.

It can be safely predicted that the taxpayers of this country are not likely to take this new dose of Reaganomics lying down. Assuredly, many will turn their ire upon the Congress. Unfortunately, IRS employees will also have to contront these irate citizens and explain why their government will no longer meet its tax responsibilities.

Last year, Commissioner Egger told the American Bar Association:

> "I think it is very important that we show compassion for the honest taxpayer, who must cope with a tax system so complex that it sometimes stymies the professionals."

We agree with this view, and believe that Congress should act to prevent the wholesale dismantling of an important bulwark of our tax system. To do less would be to ignore more than a decade of clear Congressional concern that the taxpayers of this country deserve, if requested, the assistance of our Federal government in fulfilling their tax obligations.

To remedy this situation, we will propose to the Appropriations Committees in both houses of Congress an alternative budget that would provide 5,827 staff-years and $292 million for Taxpayer Service, an increase of 2,700 staff-years and $96 million over the Administration's budget request. Our proposal would enable 49 million taxpayers, or 90 percent of those requesting assistance, to be served. The impact of our proposal is shown graphically in Chart III.

Returns Processing

Six million more primary returns will be filed in FY 1983 compared to FY 1981, and 8 million more tax refunds will be scheduled. In addition, there will be almost 100 million more information documents and supplemental returns requiring processing.

Despite this workload growth, the Administration's proposal leaves intact the ill-advised reduction of almost 1,500 staff-years imposed on this function in FY 1982. In FY 1983, Returns Processing would remain 5 percent below the staffing level of FY 1981. The workload trend and resources in Returns Processing are displayed in Chart IV.

IRS notes in its budget submission that, due to reduced funding levels, it will only be able to process 3.8 million of 6.9 million supplemental documents received in FY 1982, and 3.3 million of 7.3 million documents (45 percent) in FY 1983. These documents include such important returns as Forms 1040-X, Amended Tax Returns. That IRS was forced to note this development in its budget submission is evidence of the severe strain in Returns Processing at the present time. It is surely no credit to the tax system that only half of the amended returns that taxpayers file will be properly processed.

Moreover, there will be large revenue losses from failing to process these documents, IRS estimated last year that $200 million would be lost from failure to process extensions of time for filing individual tax returns. This was one of the programs curtailed by the 1,500 positions reduction in the FY 1982 budget. Failure to restore these positions in FY 1983 will result in a loss of $67 million per year for three years.

Under its Information Returns Program, IRS notified over 1.2 million taxpayers of potential discrepancies between income reported on their tax returns and income reported on information returns. In addition, 1.6 million taxpayers were sent notices of apparent failure to file tax returns. The Information Returns Program resulted in the collection of an additional $500 million from returns processed in 1981. The reduction in the percentage of information documents being matched with individual tax returns -- from 84 percent in FY 1981 to 79 percent in FY 1983 -- is estimated by IRS to produce a revenue loss of $15 million.

The Information Returns Program holds great promise for dealing with non-filing and underreporting of income -- two of the biggest compliance problems. Recently, considerable interest has been expressed in the Congress for extending the Information Returns Program to larger numbers of taxpayers. While this would be of definite value in curbing the underground economy, it should be remembered that IRS must be provided with the necessary resources to process the additional documents and follow up on leads.

The cost-effectiveness of the Information Returns Program is about $8 for each dollar spent. The program is a long way from reaching the point of diminishing returns, as only about 20 percent of 60 million documents received on paper (as contrasted to documents on magnetic tape) are being processed. With additional resources, the remaining 48 million documents could be matched, greatly increasing the revenue obtained from notices to taxpayers of apparent neglect to report certain income.

In addition to processing returns and scheduling refunds, Returns Processing is responsible for important compliance programs. The returns connection program is an examination program in which questionable items are resolved through correspondence between the IRS Service Center and the taxpayer. Under this program, 814,000 returns were verified or corrected in 1981, resulting in additional taxes and penalties of $205 million.

In 1981, IRS began associating information returns with cases of taxpayers who filed income tax returns in previous years but failed to do so for the current year. As a result, 1.6 million taxpayers were sent notices of apparent failure to file tax returns. These cases are managed by IRS Service Centers until field action is required to obtain a return.

Similarly, the collection of past-due tax accounts is processed in the initial stages by IRS Service Centers, which send computerized notices to delinquent taxpayers. Cases are transferred to the field for action when direct contact with the taxpayer is necessary.

The W-4 program is also implemented by IRS Service Centers. The program was established in 1980 to check abuses by employees who file incorrect withholding allowance certificates to reduce taxes withheld from wages. IRS is now in the process of developing a computer system to detect employees with large payrolls who have not submitted Forms W-4.

Under the Combined Annual Wage Reporting system, W-2 Forms filed with the Social Security Administration are matched by IRS with employment tax returns to ensure that the correct tax has been reported and employees have received correct social security coverage. The program began in January 1980, and resulted in assessment of $327 million in additional taxes through September, 1981.

It is evident that Returns Processing programs are not only critical to the operation of other IRS activities, but generate substantial additional revenue as well. The total revenue from these programs amounted to $1.5 billion in FY 1981. As noted earlier, because of growth in the number of returns to be processed, and the staffing reduction imposed in FY 1982, these programs have been set back. Fewer supplemental returns will be processed and fewer information documents will be matched, resulting in fewer leads and lost revenues. It is imperative that a reasonable balance be regained between resources and workload in FY 1983.

Because of the significant workload increase projected for FY 1983, and the importance of compliance programs to detect unreported income and non-filing, we recommend 28,509 staff-years and $830 million for this function, an increase of 2,350 staff-years and $68 million over the Administration's budget request.

Examinations and Appeals

Examinations and Appeals is the backbone of IRS efforts to achieve a high degree of voluntary compliance with the tax laws. The willingness of taxpayers to file tax returns, correctly assess their liability, and make timely payment is influenced by their perception that these actions will be required if not done voluntarily. Voluntary compliance is dependent to a significant degree on public confidence that IRS is able to identify non-compliance and will take corrective action.

Publicity given to the underground economy, abusive tax shelters, and other forms of non-compliance can have an adverse effect upon compliance among the general public. A perception is fostered that many are not paying their fair share of taxes. This can create a "bandwagon" effect among normally honest taxpayers, causing them to cheat because what they have read, seen or heard has convinced them that "everyone" is doing it.

A public opinion survey conducted by the Roper Organization in 1980 bears this out, for over half those polled believed that "fairly many people cheat in some way on their income taxes." In order to stem the decline in compliance, it is necessary to do two things immediately. First, the underground economy, abusive tax shelters, tax protesters, and other forms of non-compliance must be dealt with directly. Second, audit coverage must be raised to a sufficient level to prevent voluntary compliance from declining further among taxpayers generally. This requires, in our view, an absolute minimum audit coverage of 2.0 percent.

Some people view IRS audits as an unwarranted intrusion, instead of a process of ensuring that all taxpayers pay their fair share. Americans who voluntarily pay their correct taxes justifiably resent the fact that those who cheat and are not caught make the burden greater on all honest taxpayers. During the 1960's, 5 percent of tax returns were audited and the public did not consider this too great an intrusion. Today, audit coverage is 1.58 percent, voluntary compliance is lower than ever, and more and more people are playing "audit roulette." The root cause of this situation is not that IRS is too intrusive, but that is not intrusive enough. It does not have an adequate presence among taxpayers.

IRS needs adequate resources to audit a sufficient number of returns to assure a high degree of voluntary compliance. In FY 1983, 103 million income, estate, gift and partnership returns will be filed, 6.2 million more than in FY 1980, a rise of 6.4 percent. But IRS examination staff-years will increase only 1.4 percent, and the number of returns examined will actually decrease 16 percent. As a result, audit coverage is projected to be 1.67 percent in FY 1983, the third successive year in which the coverage rate has remained below 2.0 percent. These data are shown in Chart V, appended to the end of our statement.

Given the the overwhelming evidence of sharply declining compliance, and its ruinous impact on the tax system, to complacently accept the

1.67 percent exam rate recommended by the Administration would be a blueprint for disaster. It would assure a continuing decline in voluntary compliance at the critical moment when we should be moving decisively to prevent any further "bandwagon effect" among honest taxpayers. No one knows at what point the public will make up its mind that it is foolish to pay the correct tax when so many are getting away with evasion. We must take steps to halt the decline in compliance now before a decisive shift in public attitudes takes place.

The GAO is not normally given to strident pronouncements. But one cannot read the statements emanating from that agency recently without detecting a note of urgency. Here are excerpts from GAO's recent statement to a House Government Operations Subcommittee:

> "It is imperative that IRS have sufficient resources to maintain the integrity of our tax system and collect the revenues necessary for financing essential Government activities...
>
> "Is it fair that the vast majority of taxpayers, despite these difficult economic times, manage to pay their proper share, while
>
> --the returns of many taxpayers with high potential for tax change go unaudited,
>
> --tax evasion goes uninvestigated, and
>
> --unpaid taxes are written off?...
>
> "It is important to keep in mind that IRS' various compliance activities do no more than require citizens to pay those taxes that were properly due in the first place, and that in fact were so paid by most of their number. Effective compliance should not be viewed as representing a special burden to the public at large; rather it is aimed at ensuring that all share their fair burden."

Our tax system today is in a gravely weakened condition. The first step in restoring its health must be to provide the resources needed to audit sufficient returns to restore public confidence in the efficacy of the system.

The Administration's FY 1983 budget request for Examinations and

Appeals is totally inadequate. It provides 1,200 additional staff-years, only enough to audit 127,000 more returns than in FY 1982 when examinations were reduced severely for budgetary reasons. The total number of returns to be audited in FY 1983, 1.7 million, will still be under the 1.8 million audited in FY 1981 and the 2 million audited in FY 1980. The audit coverage in FY 1983, 1.67 percent, will be the second lowest in history -- exceeded only by the current fiscal year's 1.58 percent which is proving to be calamitous.

Our alternative budget would permit auditing 2 million returns and would bring audit coverage to 2.0 percent. We recommend that Congress provide $1.8 billion and 33,000 positions for Examinations and Appeals in FY 1983. This would be $64 million and 2,000 positions above the Administration's request Chart V shows how this amount compares to workload and resource levels in prior years.

Ensuring compliance with the Crude Oil Windfall Profit Tax of 1980 is an important Examination mission. The excise tax is projected to yield $200 billion to the Treasury by 1990. In FY 1983, IRS will allocate 810 staff-years to implementation of this Act. The bulk of these -- 580 staff-years -- are in Examinations.

The General Accounting Office has testified that the extent of compliance with the Crude Oil Windfall Profit Tax Act is unknown. Despite this assessment, IRS has had to reduce other programs to provide the resources for implementing the Act. According to GAO, these program reductions have cost the Treasury $150 million in lost revenue.

In preparing the FY 1982 budget, IRS requested, and Treasury approved, 1,050 staff-years to implement the Crude Oil Windfall Profit Tax Act. However, OMB denied these positions and required IRS to absorb the program from its own resources. Similarly, the Administration's FY 1983 budget request contains no allowance to ensure compliance with this important legislation.

The cost of providing 810 staff-years is $18 million. The Treasury is losing more than eight times this amount, $150 million, by continued failure to provide these resources. We strongly urge the Congress to remedy this problem without further delay by allowing an additional 810 staff-years and $18 million to carry out the provisions of the Crude Oil Windfall Profit Tax Act.

Examinations is also at the forefront of IRS' efforts to deal with abusive tax shelters. Such shelters generate excessive bases or deductions through essentially artificial transactions -- inflated appraisals, deductions far in excess of funds placed at risk, and other schemes lacking economic reality. The promotion and use of these schemes is widely publicized and highly visible, and as their use increases, public confidence in our tax system decreases.

Many abusive tax shelters involve complex transactions calculated to extend over a period of several tax years. Because of their complexity, these tax returns tie up a large amount of Examination resources and time. At the end of FY 1981, IRS had 248,000 tax returns involving abusive tax shelters under examination, 75,000 more than a year earlier. These tax returns contained about $5 billion in questionable deductions.

Tax shelter cases tie up the Appeals division also. In FY 1981, Appeals received a total of 19,116 tax shelter cases, about 10,000 more than a year earlier. At year end, there were 8,572 civil cases docketed for court action.

Because many tax shelters involve limited partnership agreements, IRS has doubled the audit coverage of partnership returns to about 17 percent for returns showing more than $25,000. Partnership returns are included in the tax shelter program when the return is for the first year of operations of an entity formed extremely late in the year; or the return shows a large net loss or large gross income.

IRS estimates that abusive tax shelters cost the government about $3.6 billion annually in lost revenue. During 1981, IRS recovered only about $600 million of this through tax shelters cases closed. Further damage results from the adverse impact of abusive tax shelters in public respect for our tax system.

Examinations Division must continue to make a strong effort in this area if the threat to voluntary compliance is to be checked. We call upon the Congress to ensure the adequacy of Examination resources for this important task.

In recent years, faced with declining resources, IRS has attempted to maintain audit coverage of higher income classes by shifting examinations from low-income returns. Last year, we noted in our testimony that IRS had begun to abandon this policy by limiting Coordinated Examination Program (CEP) audits to "pure tax issues" (defined as foreign and investment tax credits, balance sheet issues, and significant acquisitions and dispositions), and/or conducting such audits on a "skip cycle" basis (audits in alternate years concentrating on unresolved issues from the previous year). CEP is the Service's most sophisticated audit program, in which specialized teams audit the nation's largest corporations.

This year we have further evidence of IRS' decision to reduce audit coverage of corporate returns. In one District, the FY 1982 audit plan reduces audit time on corporations with assets over $100 million by 22.2 percent. Audit time on corporations with assets of $50-$100 million is reduced 18.1 percent, and on corporations with assets of $10-$50 million is reduced 13.6 percent. Since all IRS districts adhere to a national audit plan, the situation in other districts would be comparable.

This policy not only favors the large corporations, but jeopardizes one of the most important compliance programs -- the annual coordinated audit of the largest firms. It is a direct consequence of the sharp reduction in audit coverage in FY 1982, and serves to illustrate the danger in the present situation. If the media should start publicizing that even the largest corporations may soon be able to join the "audit lottery", the impact on the ordinary taxpayer could be devastating. Furthermore, with recent polls demonstrating that the general public believes that last year's tax cuts overwhelmingly favored the business community, the reduction in corporate audits will only fuel the perception that the tax policies of this Administration are weighted toward "corporate America" at the expense of the individual taxpayer.

An important factor in the Examinations workload is not only the growing number of returns, but the increased time required to complete an audit, due to greater complexity of the tax laws and more frequent changes in the law. The past six years have witnessed enactment of seven major pieces of tax legislation (Tax Reform Act of 1976, Revenue Act of 1978, Crude Oil Windfall Profit Tax Act of 1980, Omnibus Reconciliation Act of 1980, Omnibus Reconciliation Act of 1981, Economic Recovery Tax Act of 1981). Because of the larger number of more complex returns, IRS should base its audit plans on a realistic assessment of the number of returns that can be properly audited with the staff available.

Unfortunately, this factor is insufficiently recognized by IRS management, which has been pressuring employees to maintain quantity at the expense of quality. Over the years, IRS management has adopted statistical objectives for evaluating programmatic performance. Work plans stating the number of audit cases to be closed are developed at the IRS National Office, distributed to the Regions and the Districts, and are then shown to the employees, who are made to know that their performance rating will depend on closing the required number of cases.

When production statistics fall short of the plan, management turns up the heat to "make quota."

As a result of this production pressure, experienced Revenue Agents and Tax Auditors are treated like clerks. Their participation is not sought in drawing up these plans, despite the well-known fact that both morale and productivity increase when employees participate in establishing the unit's objectives. The consequence of such a system, as we have repeatedly pointed out, is that morale and professionalism are undermined. Revenue Agents and Tax Auditors are pressed to close cases after only one interview with the taxpayer. Audits are normally focussed on two or three questionable items, and employees frequently lack the time to follow up on leads. A premium is placed on agreed settlements, even though such settlements may not be fair to the government or the taxpayer. The overriding objective is to close as many cases as possible.

When it investigated this situation in 1979, GAO found IRS management oblivious to the fact that audit quality had deteriorated seriously. In its report, "IRS' Audit of Individual Taxpayers and Its Audit Quality Control System Need To Be Better", GAO noted that IRS management did not even acknowledge it had a problem. When faced with major programmatic deficiencies uncovered by the GAO, the IRS simply tried to belittle the report's findings.

Given management's fixation on statistics and unwillingness to listen to its own employees, this attitude is not suprising. Little will be done about declining morale, low audit quality, and unfair settlements under the present management system, because these factors are not part of the statistical apparatus that drives the system.

In its 1979 report, GAO pointed out that when IRS does less than quality audits, some taxpayers may pay more than they owe, tax revenues may be lost and voluntary compliance may suffer. GAO found that in about half the cases it reviewed significant audit issues were overlooked, and Tax Auditors were not auditing items in sufficient depth.

GAO stated that it "traced the reasons for quality problems to several factors, most of which were connected by the theme of time pressure exerted by management, whether real or perceived, to do audits as quickly as possible." Eighty-five percent of Tax Auditors, 71 percent of group managers, and 72 percent of reviewers said that Tax Auditors had less than adequate time to conduct examinations. Seventy percent of Tax Auditors, 58 percent of reviewers, and 39 percent of group managers felt quantity was being overstressed to the detriment of quality.

In two separate reports, one in 1976 and the second in 1979, GAO has expressed concern over whether examination rates used in developing the annual audit plan provided enough time for Revenue Agents and Tax Auditors to conduct quality audits. In its 1979 report, GAO called upon IRS to define audit quality in measurable terms and determine the time required to do a quality audit. IRS has not responded to this advice to date.

Instead, what appears to be happening is that IRS is cutting back on the number of complex returns audited and increasing coverage of simpler returns, in order to audit a larger number of returns overall. In short, management by statistics remains as entrenched as ever within IRS.

This management system cannot be justified by the fact that caseloads have been rising and staff resources falling. IRS should recognize that whatever job it does with its limited resources, it should do well. By allowing production pressure to govern so sensitive an area as taxpayer audits, it is aggravating a difficult situation by undermining professionalism and alienating its employees.

Production pressure has been a contributing factor in the exodus of many talented people from the Service. Attrition among Revenue Agents is now the highest it has been in thirteen years -- 11.6 percent of average employement; attrition among Tax Auditors is 11.2 percent. This high turnover is producing a less skilled and less experienced workforce, and is adversely affecting the Service's ability to get its job done.

An IRS study of attrition among Revenue Agents in grades GS-5 to GS-7 conservatively estimated that these personnel losses cost the Service almost $6 million, exclusive of training costs and lost productivity. While salary was the single leading cause for the loss of quality trainees, production pressure was listed more frequently than salary as a cause of separation by respondents to a post-employment questionnaire.

Typical write-in comments were: "IRS worships statistics without regard for professional quality of audits"; "IRS treats Revenue Agents like clerks"; "It's hard to do your job when all (that) your supervisors are interested in is more tax money, not just being fair to the taxpayer"; and "Management is insesitive and lacking in initiative regarding improvements in working conditions."

The study found that "a much higher percentage of employees indicated they left for reasons associated with production pressures and dissatisfaction with Agency policies and practices than were reported by management." Again, IRS management has not been realistically assessing what is going on.

Another IRS study looked at Revenue Agent losses by grade and field office in FY 1979. For all 65 field offices, the number of quits (voluntary separations, not including retirements) in grades 9-13 was 542 Revenue Agents. This was 63 percent of the total number of Revenue Agents who quit that year. The other 37 percent who quit were in grades 5-7. In other words, more experienced Internal Revenue Agents are leaving the Service than inexperienced agents. The field offices with the highest quit rates of experienced Revenue Agents were located principally in the Sunbelt states of the Southeast and Southwest.

An idea of the impact of these losses on the experience level of Revenue Agents as a group may be gained from the following table:

Revenue Agent Separations and Accessions

Fiscal Year 1979

GRADE	TOTAL SEPARATIONS	TOTAL ACCESSIONS	AVERAGE NO. OF REVENUE AGENTS
14	49	4	440
13	305	11	3,456
12	240	17	3,089
11	381	42	3,866
9	61	54	728
7	188	646	874
5	140	518	486
TOTAL	1,346	1,292	12,939

It is clear that the bulk of separations are occuring among the more experienced employees, while most of the new accessions are in the lower grades.

Revenue Agent attrition increased from 10.5 percent in FY 1979 to 11.6 percent in FY 1980 -- the highest level since 1967. This is shown in Table III at the end of our statement.

Salary and alternative employment opportunities are important factors in this attrition. An IRS study completed in 1981 stated:

> "IRS salaries are becoming increasingly less competitive in the marketplace for accounting graduates. This makes it difficult to attract quality graduates, as well as to retain those that the Service is able to hire.
>
> "The College Placement Council Salary Survey for 1980-1981 indicates that for the period September, 1980 - January, 1981 the average starting salary offer to Bachelor's Degree candidates in accounting was $16,728, an increase of 7.8% over the average salary offer of July, 1980...

> "At the 50th percentile, the salary offer was $16,800 for all graduates with a Bachelor's Degree in accounting. This means that 50 percent of all accounting graduates receive salary offers of $16,800 and above. A more telling statistic is the fact that the starting salary offer at the 10th percentile (above which 90% of the offers were made) was $15,000.
>
> These figures compare to IRS starting salary offers $12,266 at GS-5 and $15,193 at GS-7.
>
> The high percentage of Revenue Agent trainees who separated due to performance-related reasons indicates that the Service is not effectively competing for quality accounting graduates...
>
> The task force concludes that, while salary is a significant reason for Revenue Agent quits, it is a much more critical factor in the initial recruitment of quality trainees. Substandard salaries, all else being equal, will result in a substantial number of substandard hires...
>
> The College Placement Council reports a projected 8% increase in the demand for business graduates generally in 1981, and a 15% increase in the demand for accounting graduates by public accounting firms alone. In the public sector, the Council projects a 34% increase in demand for accountants and auditors with Bachelor's Degrees, and a 25% increase for those with Master's Degrees, exclusive of projected Revenue Agent hires which they estimate at 1800 for Fiscal Year 1981.
>
> The task force concludes that this substantial increase in projected hires, plus the salary issues discussed above, will make it increasingly difficult to hire adequate numbers of quality Revenue Agent recruits in 1981 and succeeding years."

Inadequate salaries, disenchantment due to production pressure and lack of professionalism, and a growing number of private sector employment opportunities are together causing excessive attrition of skilled Agents. At the same time, the Service's inability to compete for quality people in the marketplace is making it increasingly difficult to replace these Revenue Agents with high-calibre individuals. Under these conditions, the skill level of Revenue Agents as a group is bound to decline if remedial action is not taken.

Any solution must deal with the root causes of the problem. IRS management needs a thorough overhaul to put statistical tools in their proper place. The system of incentives that puts numbers ahead of people must be changed. IRS employees should be consulted and given the opportunity to participate in formulating their unit's goals. Most studies show there exists a dramatic potential for increased morale and productivity when workers are consulted and their creative energies harnessed to attaining the organization's mission.

In addition, IRS must rapidly formulate and implement, with Congressional support, an Employee Retention Program covering critical occupations where attrition is excessive. This program should address the problem of Revenue Agent salary scales being out of line with the private sector in terms of both pay and responsibility. For too long, the Federal government has kept the upper grade of an Internal Revenue Agent at the GS-13 level, despite the tremendous growth in complexity of our tax laws and the degree of accounting sophistication with which returns are prepared. A Revenue Agent's responsibilities in auditing a complex return of a corporation or partnership today, and the commensurate skills required, are greater than a decade ago. Through a combination of upgrading the Revenue Agent position and special pay schedules, IRS should be given the means to compete for quality personnel in the marketplace.

The Employee Retention Program must also contain measures designed to enhance the attractiveness of the Revenue Agent's job, upgrade professionalism, provide greater career opportunities, and increase recognition of outstanding performance. In sum, the program should represent a full commitment by IRS management alleviating an extremely serious problem.

We urge the Congress to call upon IRS to institute such a program for Revenue Agents, Tax Auditors, and Revenue Officers (for discussion of Revenue Officer attrition, see below under Collections). The Service should be required to report to the Congress periodically on the progress of this program. It also should seek immediate administrative approval of the program and, where new statutory authority is needed, it should draft the necessary legislation and submit it to Congress for consideration. We believe that this program should have top priority.

In its budget submission, the IRS IRS also has announced that it will test an Automated Computerized Examination System (ACES) in FY 1983. The purpose of the system is to automate examinations conducted in district offices by providing Tax Auditors with computer terminals that display the taxpayer's return and related information, and the audit issues to be addressed. It would not be necessary to retrieve the original hard copy of the taxpayer's return in order to conduct the examination, as is presently the case. The Tax Auditor would enter information obtained during the conference with the taxpayer into the computer, which would issue a report upon conclusion of the audit. The system attempts to achieve an essentially paperless office examination.

IRS expects that improved computer support for Tax Auditors will result in more efficient office examinations. Its congressional budget submission states that savings resulting from the system will be applied to additional examinations, thereby improving compliance and obtaining added revenue. While the ACES system is too new for any evaluation at this time, we will be monitoring its development closely. We do not oppose giving IRS employees the tools needed to do a better job. However, this will be an important test of whether IRS management intends to solicit the views of its employees and permit their participation in the introduction of a system which will make radical changes at the work place and entail new job responsibilities. We expect to be consulted at each step in the process, so that the impact on employee morale, job description, and career opportunities will be accomodated.

We have previously noted that the case backlog in Appeals at the end of FY 1982 will be 49.8 million cases, compared to 27 million in FY 1981. This backlog represents $14 billion in unresolved tax deficiencies and penalties. The Administration's budget request provides only 225 additional staff-years for Appeals, which will allow the backlog to be reduced only slightly, to 42 million cases in FY 1983. In order to maintain balance within Examinations and Appeals, some of the additional 2,000 staff-years that we recommended to maintain audit coverage would be allocated to the appelate function.

A major reorganization instituted by the Administration has placed control of appellate cases under the IRS General Counsel. We are highly skeptical of the wisdom of this decision and intend to monitor its consequences closely. Appeals Officers are highly skilled careerists who strive for settlements which are in the best interest of the taxpayer and the government. By virtue of their years of experience, these employees are among the most technically knowledgeable in the IRS. Taking away their authority over dispute resolution will only aggravate problems which we predicted back in 1978.

At that time, we strongly opposed new regulations which transferred final jurisdiction in docketed tax cases from the Appellate Division to Regional Counsel. Under this procedure, Appeals Officers were given only four months to settle unresolved docketed cases. Even someone with only a cursory knowledge of the appeals procedure knows that four months is hardly enough time to evaluate and settle a case with any significant degree of complexity.

We stated then that this artificial time limit would only ensure that many cases which could otherwise be settled administratively would instead be brought to trial. Our warnings have now come home to roost with the Chief Counsel complaining that too many cases are being forwarded for litigation.

By giving the Chief Counsel complete authority over the Appellate Division, the IRS is risking that the goal of achieving a fair settlement with the taxpayer will be supplanted by the interest of the Chief Counsel in keeping litigation caseloads manageable. Appeals Officers are likely to be pressured to accept premature settlements, regardless of the merits of the case, in order to decrease the workload of Chief Counsel Attorneys.

Such a situation would not only be extremely demoralizing for Appeals Officers but would also threaten the IRS' mission of collecting all taxes legally due to the government. It is readily apparent that the only possible winner in all of this will be the upper bracket taxpayer who will get his or her case settled more easily and will be spared the cost of litigation.

Collection

Collection Division is responsible for collecting delinquent tax accounts and obtaining delinquent tax returns after the taxpayer has failed to respond to written notice. Mounting unpaid tax accounts and the non-filing of required returns have been persistent signals of increasing taxpayer non-compliance in recent years.

We have repeatedly called for additional Collection resources to prevent the extraordinary amounts of revenue lost from ageing of past-due accounts, and to reduce production pressure on IRS employees confronted with rapidly rising caseloads.

As a result of the Administration's ruinous budgetary policies, the inventory of delinquent accounts receivable will increase to the highest level on record -- from 1.4 million accounts worth $4.7 billion at the end of FY 1981, to 1.5 million accounts worth $4.8 billion at the end of FY 1982. These figures include only the accounts in year-end inventories.

According to GAO, the total amount owed by taxpayers in FY 1981 was $20.5 billion. Of this amount, $8.8 billion was collection process, $0.8 billion was in installment and deferred accounts, and $3.9 billion was classified as currently not collectible. The balance was in accounts not processed ($4.7 billion) or set aside for further investigation ($2.3 billion).

These figures --$20.5 billion uncollected from taxpayers and $3.9 billion written off as uncollectible -- comprise one of the sorriest chapters in the history of tax administration. That was in Fiscal Year 1981. Because the warnings of this union and other responsible observers went unheeded, the figures for FY 1982 will be worse.

Fortunately, the Administration appears to have become aware of the problem and now intends to allocate 4,000 of the 5,000 staff-years in its "revenue initiative" to the Collection Division in FY 1983. We support this increase, which is the minimum amount needed to recover lost ground in this important area of compliance.

We urge Congress to approve the full amount requested for Investigation and Collection for FY 1983, and to enact the supplemental appropriation request for FY 1982. In order to start hiring the additional employees at once, it is urgent that the supplemental appropriation be approved as soon as possible.

If the requested amount is approved, IRS will be able to close 3.2 million accounts in FY 1983 compared to 2.4 million in FY 1982. Revenue collected will rise from $8.4 billion to $10.2 billion. The end-of-the year backlog of delinquent accounts will be cut in half, from 1.5 million to 705,000. Revenue in closing inventory will fall from $4.8 billion to $2.3 billion. These results are shown in

Chart VI appended to the end of our statement.

In the important non-filer program, an additional 200,000 delinquent returns cases will be closed and more leads will be acquired. The number of delinquent returns secured will rise from 1.4 million in FY 1982 to 1.7 million in FY 1983, and additional dollars assessed on these returns will increase from $2 billion to $2.4 billion.

The number of Revenue Officers will increase from 6,183 in FY 1982 to 7,388 in FY 1983 -- a 20 percent rise. This will reduce caseloads and perhaps (though this is dependent upon management) alleviate some of the enormous production pressure that has been brought to bear on the Collection Division in recent years.

Production pressure in the Collection Division has been of the most intense kind -- a blind, almost irrational, attempt by management to attain pre-set production quotas at all cost. This requires closing the maximum number of cases in the shortest amount of time, despite the difficulty or complexity of the case, and despite the sacrifice of professional results. Production pressure has contributed to overly generous installment settlements with taxpayers, to unwise seizures of businesses, and to the highest attrition rate among Revenue Officers in 11 years. This scandalous situation has been sensationalized by the media, with consequent damage to the Service's image.

In a recent NTEU survey of its members, some Collection Division employees reported that management is still bringing pressure to close cases by seizures or levies. This approach simply does not make sense in most cases. The taxpayer loses his business and the Federal government loses revenue. Seizures should only be used as a last resort -- not as a means of making numbers. While the pressure to seize or levy has substantially abated from a few years ago, it has not totally disappeared from the service.

Last year, NTEU brought to the attention of Congress a serious morale problem in the Los Angeles District's Collection Division which resulted in over 60 percent of the employees signing a petition calling for an investigation. I would like to quote from the petition, which eloquently describes the problem Collection employees face:

> "The Collection Division in the Los Angeles District of the Internal Revenue Service is unable to treat each taxpayer as an individual with unique problems and individual concerns. This is not because the employees do not want to do so, but because management will not allow it. The taxpayers of this District will feel increased pressure from the IRS in the future due to the fact that increased caseloads and low levels of employee morale and technical ability are forcing enforcement officers to look for the easy way to close a case and not the best way. This will result in the taxpayers in Los Angeles District having businesses closed and bank accounts attached. The employees in the Los Angeles District want to treat the taxpayer as human beings but management will not allow it..."

> "Unmanageable caseloads have reached the point in the Los Angeles District that the taxpayer can no longer expect to receive any logical service from the IRS. Management cares only in closing the case as fast as possible to enhance their own chance of survival. Those collection employees who desire to take the time necessary to handle each and every case in a professional manner succeed only in being given more and more cases to fall behind on. Management refuses to accept the fact that Collection employees are already overloaded with work and are now in the process of dumping thousands of cases on us from the Fresno Service Center."

> "Management in the Los Angeles District has become so totally paranoid over productivity standards that they are ignoring Manual requirements and National Office directives and policies in an attempt to squeeze more closures out of employees. The present result of this chaotic situation is that employees do not know what is expected of them. Management does not know what it wants and the end result is a mass attrition of qualified employees from the IRS who cannot operate in an 'amateur hour' mentality. And finally it is the taxpayer who suffers. The taxpayer is caught in the middle of a production crazy system which rewards case closures at whatever cost and punishes professionalism by increasing the workload."

Unfortunately, this tragic situation still exists. Additional resources will help reduce average caseloads, but if management persists in imposing unrealistic work plans and pressuring for statistical closure, the problem will continue.

The exodus of skilled employees in the Los Angeles Collection Division has reached the point where 75 percent of the people have less than three years on the job. Almost 33 percent of the Revenue Officers have less than twelve months on the job.

This situation is reflected in the high attrition among Revenue Officers service-wide, which has reached 11 percent -- the highest level in eleven years. Both production pressure and low-paying have contributed to this adverse situation.

An article in the Wall Street Journal on March 29, 1982 noted the fact that many Collection employees are new and inexperienced, and commented:

> "Getting and keeping good people isn't easy, especially when the starting pay for revenue officers - people who go out and try to collect money in person - is $12,850 a year. Office collection officials, who work by telephone, start at $11,500... In the Sun Belt, where the collection problem is at its worst, IRS salary scales can't compete with the pay offered in fast-growing industries."

The same article quoted Clair Stone, manager of three Collection offices in California, as saying that in any given year turnover among her 250 workers ranges from 75 percent to 100 percent. "I don't know how many well-trained people I have," she was quoted as saying.

In sum, the injection of new resources will help recover the lost effectiveness of the Collection Division, but new resources alone will not do the job. IRS' management philosophy must be completely overhauled. Employees should be called upon to participate in formulating realistic work plans, which they will feel responsible for executing. Greater employee participation in setting work goals will not only improve morale, but will contribute to a more professional climate and increased productivity as well. It will also help lower attrition.

It is also necessary for IRS to implement the Employee Retention Program we recommended earlier in this statement. Concrete steps must be taken to reduce attrition among Collection employees. Among these steps must be a review of pay differentials with the private sector, and measures to ensure an ability to compete for qualified personnel in the marketplace.

IRS intends to introduce a pilot project for an Automated Collection System (ACS) in FY 1983. This system will enable Collection Officers to obtain taxpayer account information, telephone delinquent taxpayers, and send follow-up notices by means of computer. It will result in an essentially paperless office collection process.

Unfortunately, it appears IRS is about to make a horrendous mistake in developing the Automated Collection System. In its Request for Proposals (RFP) seeking bids for development of the system, IRS announces its intention to have taxpayer return information programmed into its computers by outside contractors. We believe that turning over such confidential information to non-IRS personnel materially risks the possibility of compromise. Even if stringent safeguards are taken, the publicity attending such action is bound to adversely affect the public's perception of the Service.

The Service cannot toss lightly aside its fiduciary obligation to taxpayers to preserve the confidentiality of returns. Development of ACS does not transcend the importance of the taxpayer's trust. It is upon such trust that voluntary compliance is based. We therefore urge the Committee to bar the use of appropriated funds for any purpose which would result in disclosure of confidential taxpayer return information to non-IRS personnel.

NTEU will closely monitor the introduction of the ACS system because of its potential for major impacts on personnel and workplace. We expect to be consulted by management each step of the way, and not after decisions have been taken. This will be an important test of whether management is willing to involve employees in decisions on how the job is to be done, and allow them a voice in the introduction of the new system.

A further development that stresses the need for close coordination between management and employees is the IRS proposal to test a centralized system of reviewing Collection results. This test, now underway in the Central Region, will result in the transfer of Collection cases from one IRS district to a designated central district for quality review. Instead of a district's own quality control staff reviewing the cases generated in the district (the current procedure), cases would be shipped to a centralized staff for review.

IRS believes this procedure offers the prospect of a more uniform review and improved efficiency. The costs in employee turbulence and attrition are not mentioned. The Central Region, which has designated Cincinnati as the review location, intends to obtain the necessary staff by first asking for volunteers within commuting distance of Cincinnati, and then making reassignments from the Cleveland and Louisville districts. Additional staff would be obtained by recruiting. Naturally, this would require training the new employees. In the meantime, trained reviewers in the other districts are to be reassigned to other duties.

We cannot imagine a more wasteful use of personnel. The relocation and training costs, disruption in job assignments and careers, is to be required because of an alleged need for more uniform review and "efficiency". The Region's plan never raises the impact on employee morale, personnel turbulence, training costs, and higher attrition. It fails completely to show that the present system is not working. IRS management is engaged here in an action without any real foundation in need, taken in total disregard of the impact on employees.

There would also be a detrimental effect on the taxpayers themselves. the movement of an individual's files to a Central Region would force that taxpayer and his or her representative to travel back and forth to that regional office each time any meeting or conference with the IRS was scheduled. Many tax practitioners have purposely located their offices in areas of cities near local IRS offices. Such a change in procedure by the IRS would be a source of considerable hardship to everyone involved.

In addition, a transfer of Collection cases from one IRS regional office to a designated central district would greatly increase the possibility for misplacement of taxpayers records and files. As the Subcommittee is aware, a great number of taxpayers file voluminous attachments to their returns. This would be particularly true in the cases reviewd by such a centralized quality review process as the IRS proposes. Anytime a transfer of sensitive documents occurs, the chance of error or loss increases significantly. We believe this would be a highly inefficient way for the IRS to conduct its operations.

Because of the flimsy rationale for this test, and the serious impact upon the affected employees, we urge the Congress to bar the use of appropriated funds for any further implementation.

NTEU Alternative Budget

At the end of our testimony is a table which summarizes our recommendations for an alternative budget for IRS for FY 1983. We believe if IRS is to restore our voluntary compliance system to health before continued erosion makes the present decline irreversible, additional resources must be provided for Taxpayer Service, Returns Processing, and Examinations. In total, our recommendations call for a budget of 95,789 staff-years and $3,145,500,000 which is 7,116 staff-years and $228.4 million above the Administration's request.

The last table summarizes the additional revenues resulting from enactment of our recommended budget. These revenues amount to $940 million in FY 1983, and $4.7 billion over the five-year period 1983-1987.

It is clear that our recommended program more than pays for itself. Subtracting the additional cost of our recommended program ($228 million) from the additional revenues that will be generated ($940 million) yields $712 million net to the Treasury in FY 1983. This amounts to $3.6 billion over the next five years.

We believe our recommendations represent a wise investment because effective tax administration is even more crucial today in view of the need to reduce Federal deficits and put the government on a pay-as-you-basis. A modern, effective tax administration system is essential if the Federal government is to live within its means in the coming years. A ripple effect can be expected from stepped-up tax administration efforts, which will further increase receipts through higher voluntary compliance, and thereby contribute significantly to future balanced budgets.

Conclusion

In conclusion, Mr. Chariman, we view the future with great foreboding. The past year has witnessed a significant deterioration in tax compliance, due largely to the Administration's unwillingness to provide the necessary resources to maintain audit coverage at a realistic level and to sustain returns compliance programs. Now it proposes a drastic cut in Taxpayer Service and an anemic improvement in Examinations and Appeals.

IRS is beset not only by inadequate resources, which the General Accounting Office has confirmed, but by internal problems stemming from the highest attrition rates in a decade among skilled employees. All the while, tax compliance is deteriorating not only among the growing crop of tax protesters, tax shelter abusers, and denizins of the underground economy, but among ordinary honest citizens who are losing confidence in the equity of our system.

Decisive action is needed to deal with these problems before an irreversible shift in public attitudes takes place. Once a casual attitude toward tax compliance becomes habitual in this county, it will spell the end of the voluntary compliance system we have known. We must act now to prevent a bandwagon effect upon the majority of law abiding, honest taxpayers stemming from the perception that tax cheating pays.

IRS has thousands of talented, dedicated employees willing and able to do the job. They ask only for the resources needed to be effective in the face of the mounting number of returns filed and the escalating challenges to our tax system.

It is fitting to conclude by quoting a report by T.R. Reid that appeared in the April 7, 1981 edition of the Washington Post. The report, datelined Appleton, Wisconsin, reads as follows:

> "In more than five dozen interviews with all sorts of people and businesses here, a striking consensus emerged when people were asked to name the regulatory agency they respect most..."
>
> "'Knowledgeable, professional, accomodating - fine people', said an insurance man. 'They're just totally scrupulous about people's privacy", said a banker. And so it went, with near - total agreement as to which Federal agency is best.
>
> "The winner is the Internal Revenue Service."

We ask, Mr. Chairman, that the Oversight Subcommittee recognize the crisis that is facing our tax system today and support additional funding for the IRS. While we appreciate the Subcommittee's concern over the negative impact of IRS policies and procedures on taxpayers, we submit that the allocation of greater resources to the Service is a vital first step in the solution of these problems.

We appreciate the opportunity to appear before you today, and we will be pleased to answer any questions the Subcommittee may pose.

RECOMMENDED IRS BUDGET FOR FY 1983

	STAFF-YEARS	AMOUNT $MILLIONS
A. BASELINE AMOUNT (Reagan Administration Request)	88,673	$2917.1
B. ADDITIONS		
1. Taxpayer Service Addition of 2,700 Staff-years To Assist 30 million more taxpayers	2,700	96.1
2. Returns Processing		
a. Restoration of 1,322 staff-years to ensure timely processing of returns and adequate support of returns compliance programs.	1,322	38.5
b. Information returns program greater document matching to produce complaince and non-filer leads	1,028	30.0
3. Examinations and Appeals Addition of 2,066 staff-years for audic coverage of 2.0% and reduction of Appeals Backlog	2,066	63.8
C. Total Additions	7,116	228.4
D. Recommended Budget	95,789	3145.5

REVENUE FROM $228 MILLION ADDITIONAL FOR IRS

A. RETURNS PROCESSING	AMOUNT ($ MILLIONS)
1. Restoration to 1981 Program Level	120
Revenue from increased processing of supplemental documents and improved support of returns compliance programs (returns correction and non-filer notices)	
2. ADD-ON FOR INFORMATION RETURNS PROGRAM	180
Revenue from increased document matching	
B. Examinations and Appeals	640
Additional assessment from increasing audit coverage to 2.0 percent (341,000 more returns to be examined)	
C. Total Additional Revenue, FY 1983	940
D. Total Additional Revenue, FY 1983-1987	4,700

TABLE I

PERSONAL INCOME AND INDIVIDUAL TAX COMPLIANCE GAP, 1976 - 1985 (BILLIONS OF DOLLARS)

TAX YEAR	PERSONAL INCOME	INDIVIDUAL INCOME TAXES DUE	INDIVIDUAL INCOME TAX RECEIPTS	COMPLIANCE GAP 1/
1976	1391	160	132	27.6
1977	1538		158	
1978	1722		181	
1979	1944	272	218	53.9
1980	2160		244	
1981	2404	358	286	72.0
1982	2641	376	299	77.2
1983	2887	385	304	81.1
1984	3121	411	323	88.3
1985	3411	464	362	102.0
Annual Percentage Change (1976-85)	14.5	19.0	17.4	27.0

1/SOURCE: Joint Committee on Taxation Staff Estimate

Table II

VOLUNTARY COMPLIANCE LEVELS* FOR TAX RETURNS FILED BY INDIVIDUALS

(Based on Adjusted Gross Income)

Audit Class	1963	1965	1969	1971**	1973	1976
Low nonbusiness (1040A) under $10,000	95.6%	96.1%	96.5%	--	94.2%	91.7%
Low nonbusiness (itemized) under $10,000	93.4	93.1	90.2	86.0%	86.1	84.8
Medium nonbusiness, $10,000 - $50,000	96.8	97.0	96.5	96.3	96.1	95.4
High nonbusiness, over $50,000	95.6	96.2	94.7	--	95.6	95.0
Low business, under $10,000	78.0	79.2	69.4	64.2	57.2	43.2
Medium business, $10,000 - $30,000	89.4	91.4	88.4	--	86.8	86.0
High business, over $30,000	91.5	93.7	91.6	--	91.2	89.2
Overall compliance	93.0%	94.3%	93.1%	--	92.8%	92.3%

SOURCE: Taxpayer Compliance Measurement Program

*VC = TL/TR, TR = TL + AR

Where VC = voluntary compliance levels
TL = total tax liability voluntarily reported
TR = total tax responsibility
AR = audit revenue through enforcement actions (This represents tax changes "recommended" by the audit staff before appeals and litigation including interest and penalties)

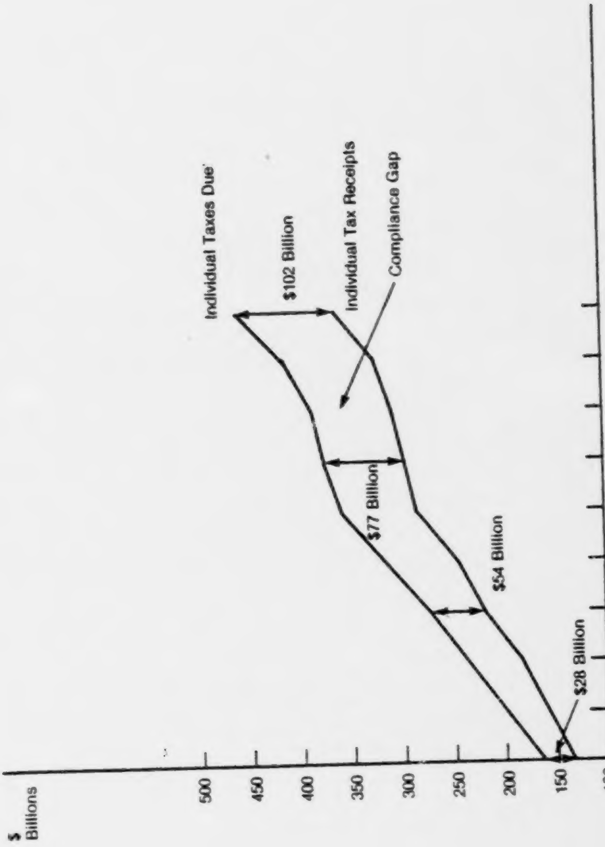
** A limited survey of only 3 audit classes was undertaken on 1971 returns

TABLE III SEPARATION RATES FOR KEY IRS OCCUPATIONS

Fiscal Year	Internal Revenue Agents	Revenue Officers	Tax Auditors
1967	10.4	11.1	12.4
1968	10.4	11.0	11.0
1969	8.9	7.2	7.5
1970	8.6	7.9	9.1
1971	6.8	8.2	12.0
1972	6.6	7.8	10.3
1973	7.8	8.3	10.6
1974	6.4	7.4	11.7
1975	6.4	6.6	9.6
1976	4.7	6.0	7.0
1977	7.5	7.3	9.5
1978	8.6	8.4	10.9
1979	10.5	9.3	10.0
1980	11.6	9.9	11.2

CHART 1

Individual Tax Compliance Gap
1976-1985



Source: Joint Committee on Taxation; Budget of the U.S Government for FY 1983

CHART 2

Internal Revenue Service
Workload and Resources

Fiscal Years 1972-1983
Index 1972 = 100

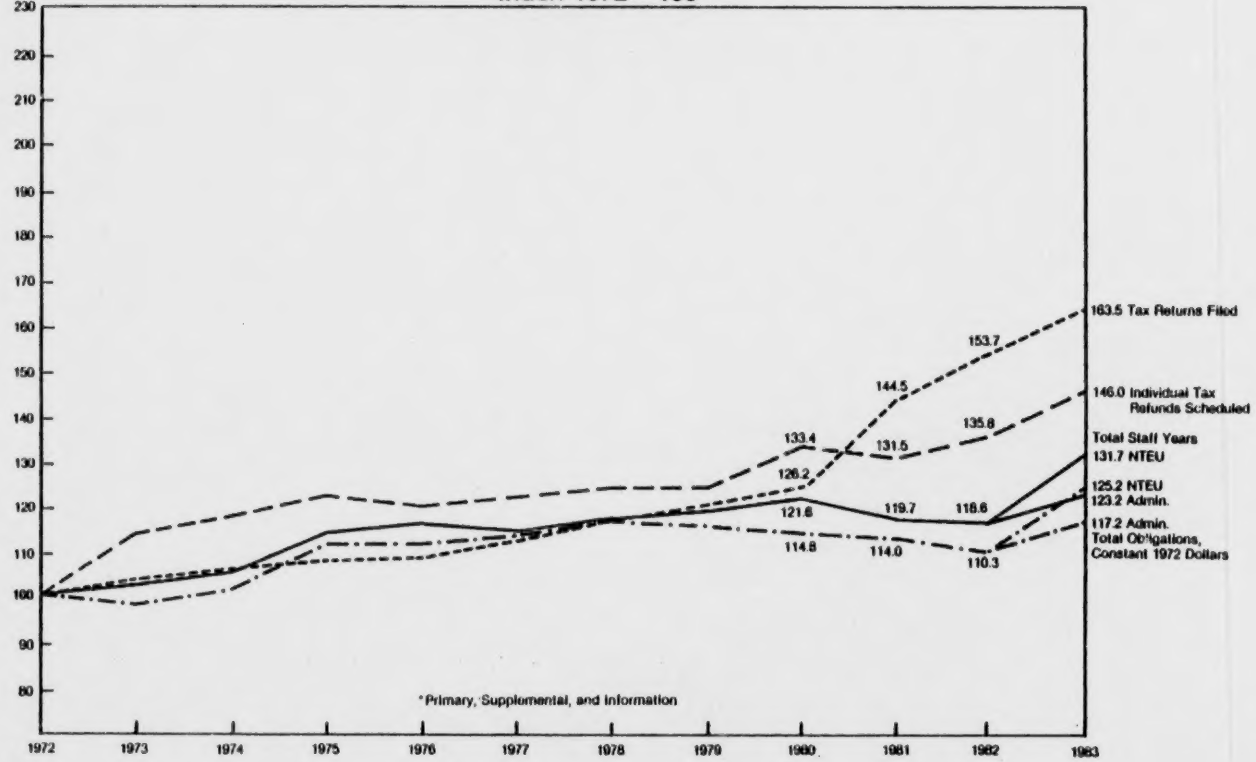
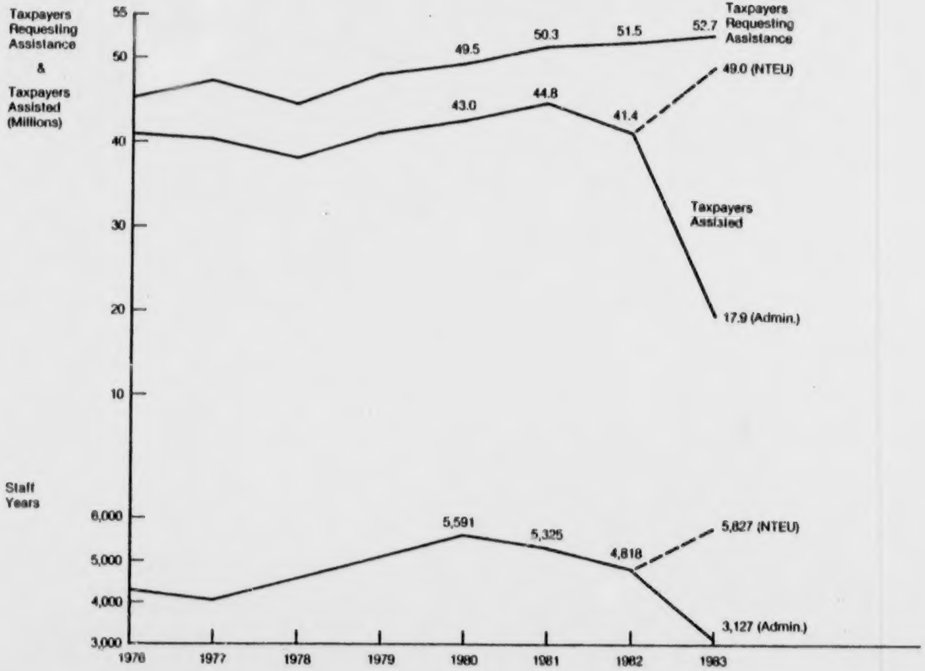


CHART 3

Taxpayer Service
Workload and Resources
FY 1976-1983



Source: IRS Budget Submissions and Studies

CHART 4

Returns Processing Workload and Resources

Fiscal Years 1972-1983

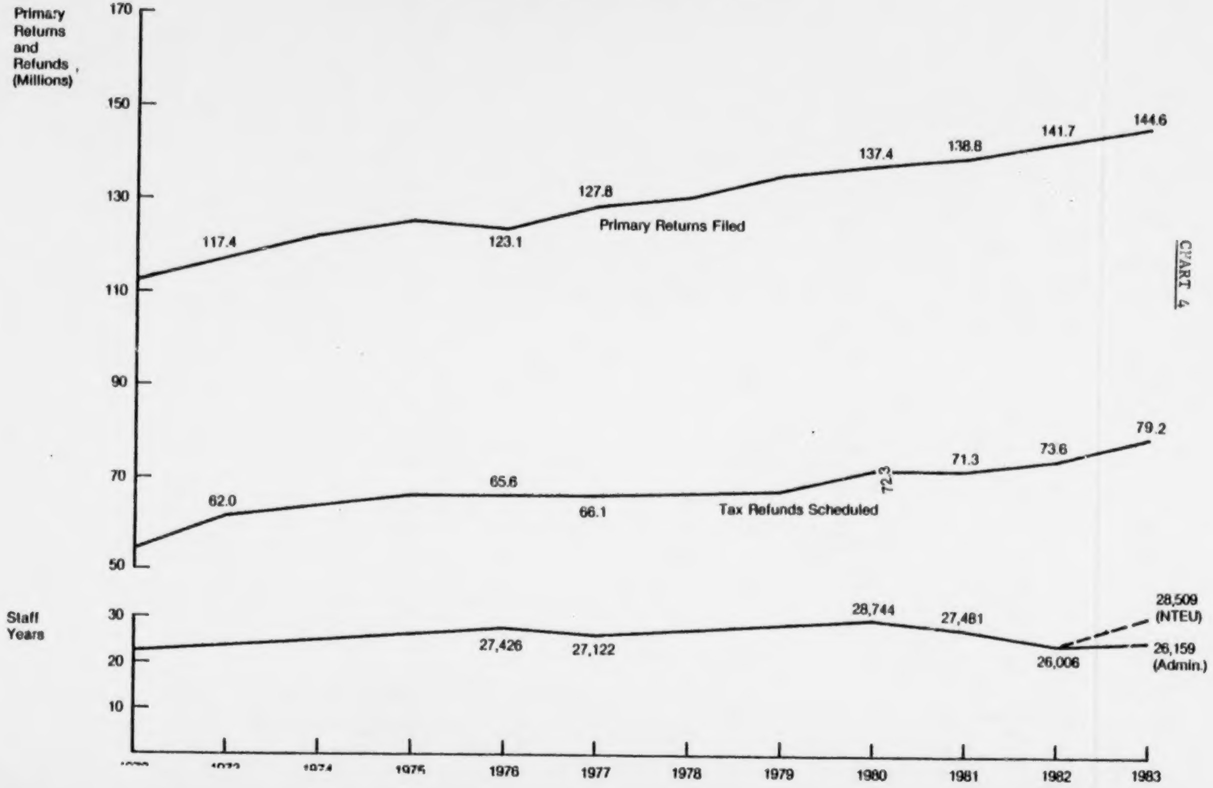
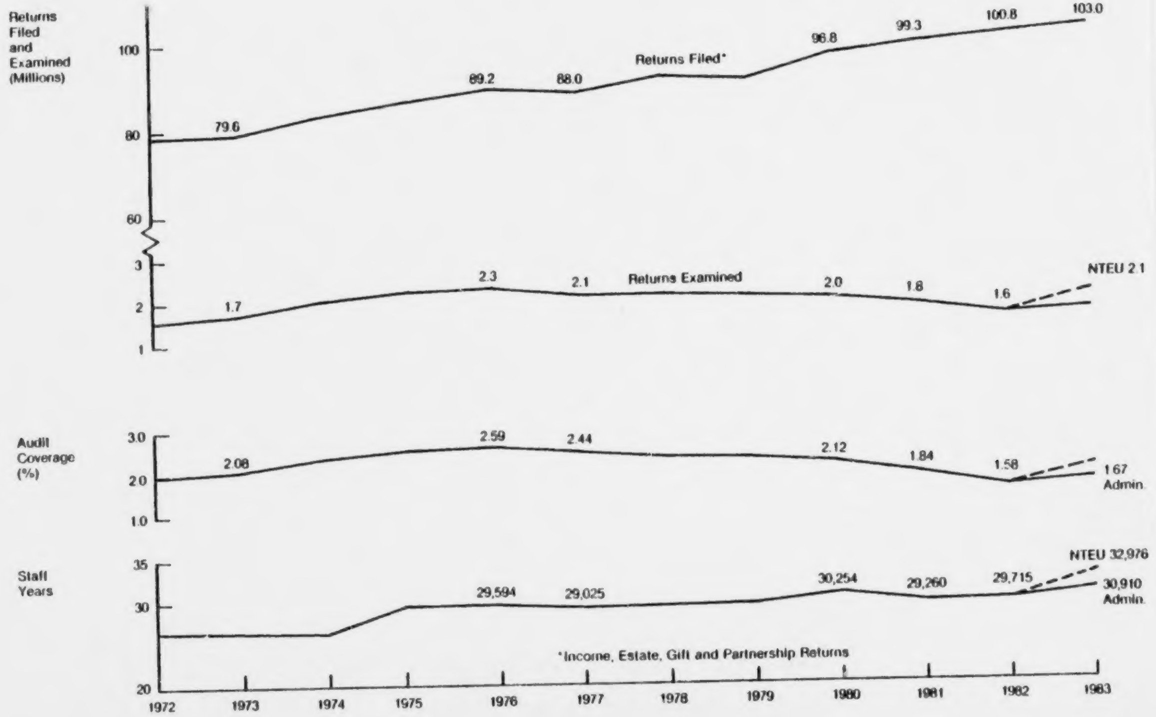


CHART 5

Examinations and Appeals Workload and Resources

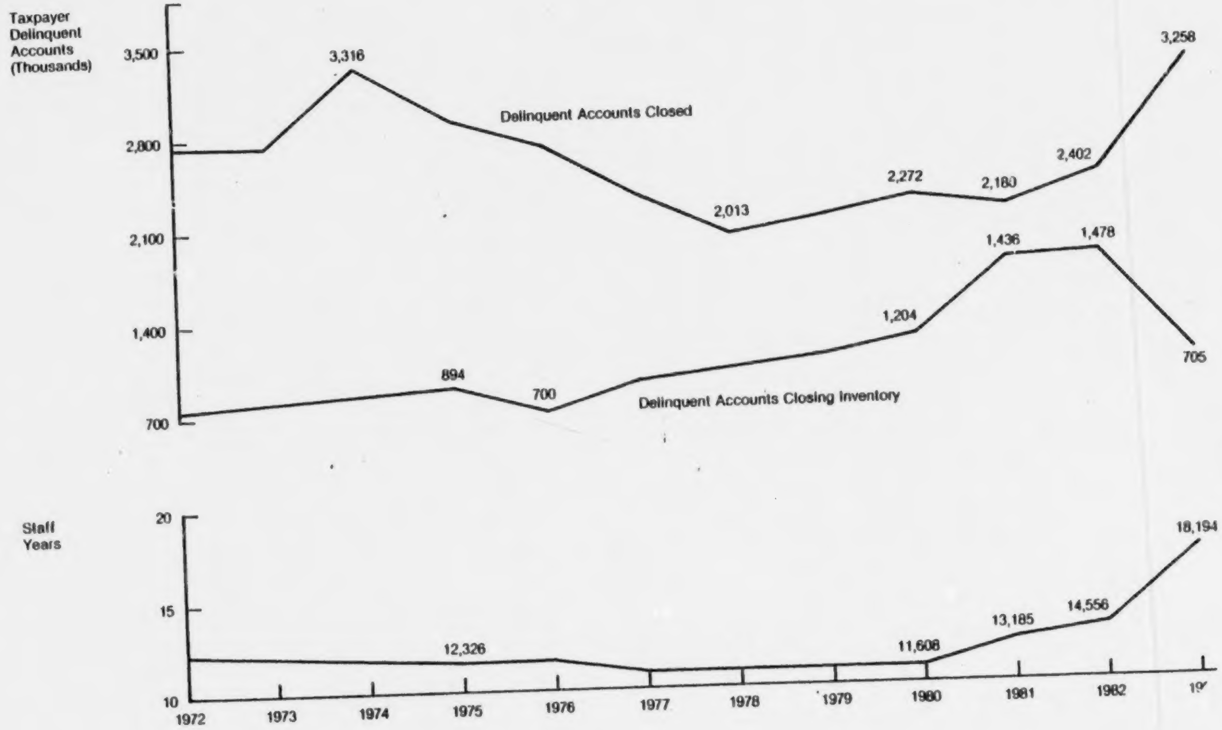
Fiscal Years 1972-1983



*Income, Estate, Gift and Partnership Returns

CHART 6

Collections
Workload and Resources
Fiscal Years 1972-1983



Chairman RANGEL. Thank you, Mr. Connery. As usual you have shown loyalty to the people you have worked with, and some of your testimony will be read later by the Commissioner. I saw the President's recent radio remarks that you should be coming back to the Congress and you should be collecting more taxes.

I hope in that same connection that while you are probably right in terms of the overall great job that is being done by the Service, that you know that it is a thankless job and so therefore, when someone believes that they have been abused or mistreated, that many times it gets more publicity than the normal harassment case.

To that extent, we do hope that there would be a mechanism set up. You might share with us the mechanism that you have. If you are satisfied that agents that have been wrongfully accused have been exonerated, since I would believe that they would receive a lot more complaints when people were frustrated in the first place just to see them, then see if you could make some suggestions to this committee. Maybe if you are not satisfied, not that we are going to get involved in the regulations but so that we would have a better understanding as to what the agent is faced with and at the same time fulfill our commitment to constituents that are frustrated.

Mr. CONNERY. We would be pleased to do that. In my experience over the years, which goes back 20 years as an IRS agent, plus 15 years in this job, in almost every instance, I have heard these stories since I came in the Service in 1950. Almost without exception, there is 110 percent more heat than light and fact in many of these complaints. But there are always a few.

Chairman RANGEL. It is a thankless job. You know it. When you say an IRS agent, certain things trigger. What I meant was not to address the validity of all of the accusations but to find out what mechanism could be there.

Mr. CONNERY. We would be delighted to do that.

Chairman RANGEL. I appreciate how long you waited.

We will adjourn these hearings with the full understanding that the record has remained open and we will follow it through with many of the questions that were raised at the hearing, and this hearing will be adjourned subject to call of the Chair.

[Whereupon, at 4:15 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

April 23, 1982 A.D.

ID SUBCOMMITTEE
APR 26 1982

To: John J. Salmon, Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Ref: PR #18 SUBCOMMITTEE ON OVERSIGHT, The Honorable Charles B. Rangel, Chairman.

WRITTEN STATEMENT IN LIEU OF PERSONAL APPEARANCE:

PURPOSE

To affirm acts being violations by IRS agents relative to collection practices, liens, levies, siezures and extortions of sums not due, and allegations of abusive conduct by IRS agents, concerning;

Lester and Betty Black AND Church of Vitaology, Star Route, Box 77 Grand Rapids, Minnesota 55744, phone number 218-326-9759 (until such time as we may be evicted) and in the "capacity of this appearance", as victims of IRS abuse.

We are not "employed" by any persons, or companies, and operate as private, unincorporated contractors, performing labor and services solely as Sovereign individuals, and as Pastor of the Church of Vitaology.

TOPICAL SUMMARY OR OUTLINE

1. A "general" life story as evidence that my expression in relation to the "Church of Vitaology" is NOT an "alter ego" and that such IRS allegation is obviously prejudicial, evidence of unequal treatment and crystal clear violation of our 1st Amendment Rights. See Exhibit "A" consisting of 6 ~~pages.~~ SHEETS

2. Exhibit "B" consisting of evidence of actual liens, siezures, etc. 5 ~~pgs.~~ SHEETS

3. Challenge of IRS jurisdiction and evidence I had not known I was a person "not required", of IRS and U.S. Treasury deceit, fraud and withholding of vital information contradicting IRS claims that I was under any obligation to "cooperate", to "furnish information", to"appear" , or submit to any demands of the IRS. See Exhibit "C", consisting of 9 ~~pages.~~ SHEETS

4. Exhibit "D", miscellaneous papers, complaints, etc., ~~3~~ 26 ~~pages.~~ SHEETS

5. Further information relative to 26,404 (I.R.C.) Affidavit, Exhibit "E" 1 page~~s~~.

GENERAL SUMMARY

1. While formerly under the illusion that I was a "person required" and under the jurisdiction (supposedly) of the IRS, I did make out a 1040 form as accurately as I was capable of, and did submit to hearings, conferences and etc., and

2. that until I discovered that I was being persecuted by a legal fiction, under color of law, and was a person "not required", I did cooperate as fully as I was able with the IRS, and

3. that at one point an IRS "magistrate" declared that everything seemed proper and reasonable, but

4. an IRS tax attorney leaped to his feet and declared "but he is a tax protestor", thus declaring that I had been "targeted for persecution", by the IRS, as

5. the ARBITRARY assessments are clearly based on a legal fiction and without ANY Lawful foundation, but are in fact an abuse of process, and

6. The information I have obtained, and upon an understanding of Constitutional intent, there is more than prejudice involved wherein the IRS recognizes (or the courts recognize), the legitimacy of churches of "witches and warlocks" as opposed to a "Protestant" CHRISTIAN assembly, but is a flagrant violation of our total 1st Amendment Rights. If Congress can make no law "respecting an establishment of religion, or prohibiting the free exercise thereof", where is the authority for a "creature" of Congress, or an agency established by Congress, to do so. Congress cannot delegate "powers" it does not have, ~~nor~~ AND it is unreasonable to conceive of a mere agency of Congress exercising such authority, however

7. the issue of jurisdiction is involved. While Congress, and therefore their ageny the IRS, has the reasonable authority to exercise its jurisdiction as authorized, including creatures of government, i.e., corporations, licensed and privileged individuals and employees, Congress lacks, as does the IRS, jurisdiction over

8. A private, natural born, individual person who is UNincorporated, UNprivileged, UNlicensed, SOVEREIGN citizen of a State (outside the District of Columbia). I have found no lawful authorization for direct, Federal assessment of an "income" tax on such citizen, and

9. The 16th Amendment has NO "enabling clause" authorizing Federal Government enforcement of any such assumed authority, more,

10. By the very nature of my life and work and earnings and expenditures, being the individual I am, I have always been a person "not required" to submit to ANY IRS jurisdiction so,

11. Any such acts were performed under duress and instigated by the conspiracy of deceit, fraud, withholding of vital information and in effect the result of psychological warfare by the IRS to extort sums not due and plunder producers of wealth such as myself, and

12. I alledge that this conspiracy consists of knowingly demanding sums over, or greater than, sums authorized by law", and that this conspiracy includes other persons, fraudulent entries and demands and is carried out in collusion with the U.S. Treasury and any member of Congress who by the obligations of his office is required to know these matters, and who, if he colludes in this deceit and fraud is guilty of false swearing, the exercise of a legal fiction under color of law does not give jurisdiction or authority to violate the crystal clear INTENT of the U.S. Constitution, the Bill of Rights and specifically and especially the 1st Amendment of the U.S. Constitution.

CONCLUSION

We, Lester and Betty Black have been irreparably damaged by acts of IRS agents who have purposefully destroyed our Life, Liberty, Property, Security, Happiness, means of livlihood, by a cruel, malicious conspiracy.

Sincerely, Lester Black

Subscribed and affirmed before me a Notary Public of the State of Minnesota, County of Itasca, this 23 day of May 1982 A.D.

My Commission Expires______________

Connie A Ramstad

NOTARY PUBLIC

CONNIE A. RAMSTAD
NOTARY PUBLIC
ITASCA COUNTY, MN
My Commission Expires May 13, 1986

Exhibits attached

[NOTE TO READER: Additional materials retained in subcommittee files.]

TO SUBCOMMITTEE
JUN 1
RECEIVED
JUN 1 1982
Ways and Means
Subcommittee on Oversight

COMMITTEE ON
RECEIVED
MAY 28 1982
WAYS AND MEANS

April 25, 1982

To: John J. Salmon Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Ref: PR #18 SUBCOMMITTEE ON OVERSIGHT, The Honorable Charles B. Rangel, Chairman

WRITTEN STATEMENT IN LIEU OF PERSONAL APPEARANCE

Additional information to be added to my statement of April 23, 1982.

Since sending in the previous statement a number of happenings have taken place.

1. Our Church Property was put up for sale. Bids did not meet "requirements" the IRS agent assured me that there would be another sale.

2. I entered a "SUMMONS AND COMPLAINT" see attached. The County Sheriff said he had gotten his orders from "higher up".

3. I am enclosing an affidavit with respect to the "charter" of our Church.

4. I am attaching a "rought draft" of a DECLARATION that is being drawn up as a paper to be sent to Mr. Durenberger, Mr. Oberstar, Mr. Reagan to name three, there will be a "cover letter" requesting reasons as to why they should not be charged with treason, or named as a "defendant" before the World Court, The Hague, Netherlands, inasmuch as my efforts to obtain justice, redress of grievances and a remedy in these United States has failed dismally.

I am very disgusted with the abuse that Sovereign citizens and myself, A Sovereign citizen, is receiving by and from our PUBLIC SERVANTS. This is not only intolerable, but a remedy is needed INSTANTOR.

Sincerely and respectfully,

Lester Black

Lester Black
Star Route, Box 77
Grand Rapids, MN 55744

Eldon D. Brinley
702 River Bend Dr.
Georgetown, Texas 78626
863-4494

May 7, 1982

Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth H.O.B.
Washington, D. C. 20515 (202) 225-3627

Gentlemen:

I just learned that your hearing on IRS ABUSES was scheduled for April 26, 1982, and that oral testimony was given. I also understand that in lieu of personal appearance, you will accept from any interested person a written statement for inclusion in the record, and that these will be given the same consideration as if presented in person. I live a long ways from Washington, and the IRS has already cost me considerable expense.

My name is Eldon D. Brinley, of 702 River Bend, Georgetown, Texas 78626, and I am a retired university professor. My wife and I, Mary Alice, have a family of four children. We lived in Kingsville, Texas when we were first attacked by the IRS in 1978. My wife is a school teacher.

I am a retired Naval Officer, having fought for my country. I have always been loyal and supportive of my country and government, have been active in community services, and faithful to my God. I have always paid my taxes in full, in fact, I have always overpaid my income taxes, simply because I figure them myself, and have not fully understood all the loopholes. I have never been tax deliquent, nor arrested or in jail for any cause. We are respected in our communities, state, and nation, and have an A-1 credit rating.

We received our first IRS notice ever in early 1979 while I was in the hospital with major surgery. We responded and made appointment on June 4 for the first session. We were scheduled for additional sessions on June 29, August 24, and Sept. 28, 1979.

Since it is doubtful that any living person can fully understand the IRS Code, and Form 1040, I did my best as always, and filed my 1977 return correctly. It was accepted, processed, and a refund submitted. Later this was re-examined with audit requested. It was found that I had greatly over paid my tax on several items during the audit.

During these audit sessions we were abused, harassed, intimidated, threatened, insulted, bluffed, coerced, inconvenienced, and called liars outright. Finally at the end of the third session, the agent Charles Coffman, of the Corpus Christi office, told us we needn't come back again, and "not to expect too much refund", to which I replied "we don't expect any refund, we just want this cleared up and our names cleared."

Some time later we received a letter from IRS with an assessment of $239.00. This really stumped us. The letter stated that if there were any questions, get in contact. I went back personally to talk with the agent. This disturbed him no end. He said he was sick of this case and wanted no more to do with it. In a hostile environment I scheduled another audit session, but at my inconvenience.

This fourth session was scheduled on Sept. 28, at which time the Supervisor, Arthur O. Gillis, Jr. sat in. He had promised in writing previously to simply sit in and not participate. Actually he took over the session, and did most of the talking. They had both gone over my 1040 with a fine-tooth comb, and come up with an additional assessment of $599.00, which included a negligence penalty (even tho we had done everything that they had suggested at all times)

All four audits took place in the Corpus Christi IRS facilities at 425 Schatzel St., Corpus Christi, Texas 78401

We were subsequently docketed through the Appeals Office in Austin, Texas, thoghk we had never agreed to that. However, again we complied and reported at Appeals. Here we were treated somewhat better, and the assessment reduced from $599 to $419. We were about ready to capitulate, We were frightened, confused, and disallusioned.

We went back and figured our tax over, and found that we had overpaid in the amount of $800 instead of having a $419 deficiency. I contacted my lawyer. He was frightened, and told us it would pay us to pay the amount rather than fight them. So I contacted another lawyer. He was of the same mind. This disturbed me no end, to find that not only I, a faithful taxpayer and citizen, was frightened and bewiltered, but that lawyers were also frightened of the IRS, and wanted no part in it.

I began reading and studying, and decided to fight my own battles. I later filed in the U.S. Tax Court, Pro Se, Docket No. 28349-81, and intend to pursue this in the large tax court. If I am unable to get a fair deal there, I shall appeal to the 5th Circuit Court of Appeals.

- -

This is May 1982 and I filed my 1040 form in 1978. The Government has spent thousands of dollars on this case on an original assessment of $239, now raised to $419. This seems to me as a taxpayer, most absurd, but in reading and studying further, I find that this is fairly common practice. I am enclosing several clippings to illustrate this.

Thus the issue is very simple: A government agency is given the power to run roughshod over normal, productive, obedient, faithful, taxpaying citizens. The citizen has few rights here and little say (the criminal is protected on every hand in his civil rights) and the IRS can just about do anything they like to do. I for one, will spend the rest of my life in prison before I will further knuckle-down to this outrageous agency. The worst part of this is that the taxpayer pays the IRS expenses and agents, and they in turn take this opportunity to fight the taxpayer, which he in turn has to fork out all his own expsenses, with little chance for success.

The CIO and FBI have been curtailed in recent years, but the IRS has been allowed to run wild. I strongly recommend that this Committee restrict IRS activities to what it was created for--to collect legal taxes legally. They need to be defanged, so to speak, so far as the poor taxpayer is concerned. They need to spend their time on those who are avoiding taxpayment. I'm sure you are aware that this year Goodyear, Montsanto, and other paid no taxes. This year GE had a profit before taxes of $2.66 billion in 1981. They will not pay taxes this year, but will get a refund of from $90 to $100 million.

This latter abuse is your Representatives own fault, and has nothing to do with "Reagannomics". This scheme was voted by Republicans and Democrats in last year's tax bill.

We don't need any more taxes imposed on us. May 5 was "Tax Freedom day" We need to cut down on expenses, and to collect the taxes that are due from those who really owe. If it takes law changes to do this, so be it, but if you don't do something to curb this IRS and ease our tax burden, you will disorient millions of faithful taxpayers. Millions are already now joining a huge "tax protest" movement. Why make enemies out of your faithful and sustaining and productive citizens?

Sincerely,

Eldon D Brinley

Eldon D. Brinley

Enc: 5 Copies

P.S. To teach this foolish "rebel" a lesson, our 1976, 1978, and 1979 were pulled for audit as had been threatened.

2737 Co. Rd. 174
Craig, Colorado 81625
April 22, 1982

RECEIVED
APR 29 1982
Ways and Means
Subcommittee on Oversight

Congressman Rangel
Ways and Means Oversight Subcommittee
1101 Longworth
House Office Building
Washington, D.C. 20515

Dear Sir:

As requested, this is an account of the facts as I know them of my recent troubles with the Internal Revenue Service.

On or about August 15, 1979 my family and I moved our residence from #457 Shadow Mountain Village, Craig, Colorado 81625 to 2737 Co. Rd. 174, Craig, Colorado 81625.

I have since learned from legal documents filed in U.S. District Court in Denver Colorado, that an inquiry dated October 14, 1980 and a Statutory Notice of Deficiency (90 day letter) dated December 15,1980 were actually mailed to my previous address. These were returned to the I.R.S. by the Post Office marked, "Moved, no forwarding address."

But, on April 23, 1981 I received a notice and demand letter dated April 16, 1981. This document advised me that I had ten (10) days from the mailing date (April 16) to pay a total of $14,624.99.

Why did it take a week for this notice to travel a total of not more than ten miles? Why indeed did it reach me at all when all the other correspondence from the I.R.S. was returned to them supposedly undeliverable? Could it be that some arrangement existed between the I.R.S. and the Post Office?

Who knows what evil lurks in the heart of a bureaucrat trying to justify his job?

Subsequent to receiving the ten (ten) day notice I wrote two (2) letters to I.R.S. agent, Bill Wheatly, informing him that I had not received a 90 day letter and that I believed I had been denied due process. Neither letter was answered. In fact, I was never informed that a 90 day letter had been issued.

In a later telephone conversation with agent, Leo Kordsmier of the Craig office of the I.R.S., I stated that I was willing to come in to talk over the matter of my 1979 taxes if I could bring a witness. Mr. Kordsmier stated that he would permit me to bring a witness as long as that witness was either a lawyer or an accountant. When I informed him that the I.R.S. Code permitted a witness of my choice and not necessarily a lawyer or an accountant, he stated that he didn't care what the Code said, that he would not permit it.

When I told him that I was unable to pay for a lawyer or an accountant, but I wanted to have a witness there to protect my rights, he stated, "Don't worry about your rights, I'll protect your rights." I then declined his gracious offer to protect my rights and his invitation to be interviewed.

On June 18, 1981, I.R.S. agent, David Lambert, accompanied by two (2) unknown I.R.S. agents and two (2) Moffat County Sheriff's deputies entered my property without my permission and placed a seizure notice on my house.

Than the harrasment started. Agent Lambert, unable to get me to tell him where I was employed, intimidated our County Sheriff so bad that he tried to get my wife to tell him where I worked over the telephone. My wife of course told the Sheriff that it was none of his business. The next morning, on my way to work, I noticed I was being followed. I stopped, turned my truck around, and tried to see who it was, but as I approached the other car, it turned into a mobile home park. Not wanting to cause a scene I did not pursue then further. I headed out of town on a gravel road. Again the same car followed me. I let him follow until I thought it probable he would have a hard time finding his way back to town, than I lost him.

My wife who was with me at the time was greatly disturbed by this incident. Later when she confronted agent Lambert, he admitted that it had been he and another agent in the car following us.

At this point, I must digress to the court action undertaken by myself in this matter.

On May 20, 1981, a hearing was held on the matter in the 10th U.S. District Court before the Honorable Zita L. Weinshienk. Her Honor decided without one shred of supporting evidence or argument from the U.S. Attorney, that the ten (10) day notice that I had received on April 23 was a Jeopardy Assessment and therefore no 90 day letter was necessary. I had Judge Weinshienk recused for obvious prejudice and bias and applied for a rehearing. A rehearing was granted for July 24, 1981, before Judge John L. Kane.

Finally at this hearing the I.R.S. decided to tell us that a 90 day letter had indeed been issued on December 15, 1980.

When presented with the evidence that at no time did I try to evade detection by the I.R.S. and in fact my name and new address were listed in the Craig telephone directory. Judge Kane on December 3, 1981 ruled in my favor. This ruling should have the effect of nullifying all liens and siesures. As of this date the I.R.S. has not taken it upon itself to take the liens off my property or to inform me as to the statue of my house and property which they siesed and sold in a sealed bid sale on July 24, 1981.

The I.R.S. has released the liens on (deleted) property some time ago. His case and mine are nearly identical. They were filed at the same time and ruled on at the same time by the same Judge using the same language in his ruling. The only difference being that my good friend, (deleted) has met an untimely death since the ruling was made.

[Note to reader: Additional materials retained in subcommittee files.]

Page 3

These are some questions I would like put to the I.R.S.

1. Why has Craig, Colorado been targeted for this onslaught of Gestapo tactics by the I.R.S.?
2. When is the I.R.S. going to deal with the liens, siezure and sale of my property?
3. Is it possible to get a legally binding definition of:
   (A) Money
   (B) Income
   (C) Wages
4. Who Is Required to File?
5. Is the 16th Amendment a direct tax or an excise tax?
6. Is it really necessary for the I.R.S. to violate the soverign's rights enumerated in the Constitution and his God given rights eluded to in Article Ten (10) of the Bill of Rights?
7. How does a person fill out a 1040 form without waiving his rights?

The Internal Revenue Service has my permission to release to the Oversight Subcommittee of the House Ways and Means Committee any and all records and evidence it may have in its possession pertaining to my 1979 tax case.

The Oversight Subcommittee of the House Ways and Means Committee may make public all information they may receive pertaining to my 1979 Income Tax.

If at all possible, I would like to request a copy of the findings of the Committee so I would be able to know what the answers to my questions are.

Respectfully,

Richard M. Broom

Richard M. Broom

S.S.# 521-56-4591

Peter S. Collorafi
88 Nottingham Road
New Hyde Park, N.Y. 11040

RECEIVED
MAY 5 1982
Ways and Means
Subcommittee on Oversight

(1 of 2)

April 30, 1982
Certified Mail #P34 3635793

Committee On Ways And Means
(Subcommittee On Oversight, Chairman)
U.S. House Of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Sirs:

I happen to believe that good citizenship demands resistance to tyranny in the 1980's as much as such resistance was demanded in the 1700's.

In lieu of personal appearance before your subcommittee I am submitting this written statement attesting to recent flagrant abuse of my personal and property rights.

The following is a brief, concise, factual statement of IRS abuse and usurpation of power which caused $2641.02 of my wages to be unlawfully withheld from my paycheck as a result of intimidation and pressure which was put on my employer by the IRS.

In February of 1982 I involuntarily submitted a W-4 withholding certificate to my employer in order to standardize payroll operation as well as in the interest of receiving my paycheck intact. The W-4 was marked EXEMPT by me, and in the way of protest as well as to safeguard my constitutional rights I deleted the words "signed under penalty of perjury". I then signed the W-4 in perfectly legible, yet non-reproducible ink.

I did this in order to assert my constitutional rights as per the provisions of Public Law 93-579, since the government cannot compel any information under the guise of "voluntary compliance". I was forced to submit this W-4 executed under duress in order to retrieve my own property, which is an appalling violation of my rights.

since the IRS did not like my manner of doing things, they arbitrarily advised my employer that my W-4 instructions were "invalid" and ordered the employer to change withholding to maximum rate. This was done without my knowledge or approval, thus depriving me of my property without due process of law as per my 5th. and 14 th. amendment constitutional rights. When I questioned my employer representatives in charge of Payroll and Taxes I was told by them that they were following IRS "orders".

I am employed by:

American Airlines, Inc.
Dallas/Ft. Worth Airport
Texas, 75261

The aforementioned can be verified by contacting:

Mr. Thomas F. Angstadt, Director of Taxes
American Airlines, Inc.
P.O. BOX 61616
Dallas/Ft. Worth Airport, Texas 75261

I truly hope that something can be done to curb the usurpation of power and authority of the IRS. This renegade agency has for many decades been trampling the rights of Americans with impunity, and it must be made to account for its many violations.

Sincerely,

Peter S. Collorafi

[NOTE TO READER: Additional materials retained in subcommittee files.]

Norman H. Crowhurst

Syndicated Columnist,
P. O. Box 63,
Dallas, OR 97338

John J. Salmon, Chief Counsel,
Committee on Ways and Means,
1102 Longworth H.O.B.,
Washington, DC 20515

April 16, 1982

As I received a copy of your PR #18 only yesterday, and called your office at once because I feel I have a number of matters that need to be given as testimony before the Subcommittee on Oversight, I am submitting the attached material, and more under separate cover, with the required 50 copies.

Attached hereto you will find:
A short description of my personal story (1½ pages).
Copies of recent correspondence relative to my case, which includes some other attachments.

Under separate cover, by UPS, I will be sending you 50 copies of my recently published book, originally written with the title "Thirteen Years on IRS' Hit List," which the publisher changed to "Victory over the Beast's Image," which gives far greater detail of the story, as well as giving evidence that my competence as an engineer is such that there was no valid reason for my having been attacked in this way.

Specific questions I feel should be raised at the hearing, on which I would like the opportunity to be examined at an appropriate time, include:

1. IRS' use of threats against employers or clients to remove a person from circulation in a profession at which he has proven competence, for reasons completely unconnected with taxes.
2. IRS' use of perjured testimony to secure an indictment against a person, based on lies and otherwise falsified evidence.
3. IRS' producing forged documents and witnesses in court, who perjure themselves because of threats made to them by IRS.
4. IRS' issuing US Attorneys information about jurors, to enable their verdict to be prejudiced by personal fears of IRS.
5. IRS' manipulation of events to enable records that could conclusively prove the falsity of their charges, to be seized unlawfully.
6. IRS' use of mails and telephone service, in ways that, to any private service would be unlawful, in order to secure illicit ends, all unconnected with legitimate tax collection.
7. Deliberate efforts by IRS to dispossess a person, thereby to put him out of business and make him completely unproductive, once again for purposes unconnected with tax collection.
8. IRS' permanent staff "insulating" the appointed Commissioner, so that he is totally unaware that any of this is going on.

Those are questions that immediately come to mind. There may be more, as I have put this together rather hurriedly (although the period covered extends almost 15 years) because of the shortness of time.

Sincerely yours,

Norman H Crowhurst

Norman H. Crowhurst

COMMITTEE ON
RECEIVED
APR 30 1982
WAYS AND MEANS

LIEBMAN & FLASTER
A PROFESSIONAL CORPORATION
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MAY 1 1982
Ways and Means
Subcommittee on Oversight

MAY 3 1982
TO SUBCOMMITTEE

April 29, 1982

Mr. John J. Salmon
Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

RE: IRS SERVICE OF JOHN DOE SUMMONS ON LAW FIRM
IN NEW JERSEY VIOLATES ATTORNEY/CLIENT PRIVILEGE

Dear Mr. Salmon:

In connection with hearings of the Subcommittee on Oversight of the House Ways and Means Committee relating to whether IRS procedures are assuring the procedural rights of taxpayers, we submit herewith a brief summary of one instance where proposed IRS action threatens those rights.

As a result of a series of audits in the IRS New Jersey District Office, the Service has challenged certain deductions claimed by taxpayers for legal fees paid to this firm--arguing that such expenditures should, instead, have been capitalized. In an effort to determine the identities of other taxpayers (our clients) who may have claimed such deductions, the IRS has advised us that it intends to issue a John Doe Summons seeking our disclosure of the names of such clients who may have claimed such deductions. Putting aside for a moment the practical ability of this firm to give the IRS what it desires, the summons in this case strikes at the heart of the attorney/client privilege: namely, the right of a client to be heard and to receive advice in confidence from his attorney with every expectation that those communications will remain confidential. Additionally, all of the information which IRS could possibly obtain from this firm by use of a John Doe Summons must of necessity already be available to the IRS in its own

[Note to reader: Memorandum is retained in subcommittee files.]

files. Though it is admittedly easier to attempt to gain such information from this firm, the issuance of such a subpoena by the IRS would be both abusive and without legal authority. Indeed, adherance to standards of procedural and substantive due process often require approaches which are not the most efficient, but this is justified by the important competing stakes in individual liberties. The service of a John Doe Summons on an attorney (concerning information about his clients) goes well beyond the constitutional and legal powers of the IRS. It is particularly upsetting when using appropriate and less intrusive methods IRS could secure all of the information sought by examining its own files.

Admittedly, this brief letter can only summarize the situation. Accordingly, we have enclosed for the record a copy of a memorandum which this firm submitted to the IRS on March 12, 1982. We trust that this information will be useful to the Committee and stand ready to provide whatever additional assistance you feel might be helpful.

Very truly yours,

LIEBMAN & FLASTER,
A Professional Corporation

Richard J. Flaster

Richard J. Flaster

RJF:bah
Enclosure

[NOTE TO READER: Report retained in subcommittee files.]

The Financial Planning Corporation
OF AMERICA 11304 Elm Street • Omaha, Nebraska 68144 • (402) 330-3011

April 7, 1982

RECEIVED
APR 12 1982
Ways and Means
Subcommittee on Oversight

Rep. Charles B. Rantle - Chairman,
Subcommittee on Oversight
House Ways and Means Committee
Room 1101, Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Rantle:

I recently heard that you were in charge of hearings on the I.R.S. I became aware of the tremondous abusives of the IRS through a friend of mine who operated an independent capital formation company in the midwest. After years of harasement the IRS has nearly put him out of business. Iwould like to enter this following report into the record and Mr. Kilpatrick would be happy to answer your questions personally if you call at 1 (800) 525-8527.

I can help in any way, please feel free to call upon me. If possible I would like to visit with you as I will be in Washington, D.C. on or around May 5th. Please let me know if you could accomodate me in this fashion.

Sincerely yours,

Craig B. Forney

Craig B. Forney, CFP
President
CBF/lb

RECEIVED

Helmut F. Froeber
10562 Lowden #4
Stanton, Ca. 90680

JUN 14 1982

Ways and Means
Subcommittee on Oversight

Hon. Charles B. Rangel, Chairman,
Subcommittee on Oversight, Committee on
Ways and Means,
United States House of Representatives,
Washington, D.C. 20515.

cc: Hon. John J. Duncan,
Hon. George Hansen,
Hon. Don Young.

Dear Congressmen.

In response to a recent Hearing before this Subcommittee on "Abuses by the I.R.S.", which was held on April 26, 1982, I would like to provide additional testimony to the record of my own experiences with the I.R.S. and the Tax Court.

It becomes more evident, as the Citizens' lives are literally destroyed by this tyranical and evil agency, called the I.R.S., that the victims are now looking into ways (laws) to save themselves from total slavery, and in the process they are finding out the real truth about this fraud of "Voluntary Income Tax System".
Since most patriotic Americans are law abiding Citizens, they try to resolve their differences and problems within the frame work of the law, and in this case we are talking specifically about the Internal Revenue Code, which is a Code in "Equity" and NOT in "Law".

It's been said to be a "MASTER PIECE OF DECEPTION" and I have to agree as I will prove this point to be true later on.

For instance, the language of certain key sections in the Code are arbitrary and vague and are admittingly impossible to understand. Thus they are in violation of the Citizen's Right to "DUE PROCESS". In topping off this violation, said Agency has the audacity to add insult to injury by abusing their discretion and powers in declaring thereunder some "Thing" that is not so.
EXAMPLE: The definition of Gross Income is one of the basic elements in determining, whether or not some-one is required to file a Return (Sec. 6012, IRC of 1954). The original statutory language contained in former Sec. 22(a), IRC of 1939, is expressly and implicitly clear as to what is income to be included in Gross Income and as to what is a source of that income

furthermore it states:

> "Gross Income in cludes GAINS, PROFITS and income derived from salaries, wages or compensation........"

EXHIBIT - 1

It should be noted, that it does NOT say, gross income includes also salaries, wages or compensation. However the enacted law text is quite clear that the terms salaries, wages or compensation are sources of income and not income as the IRS claims them to be, as can be seen in the same language:

> "....gains, profits and income derived from any SOURCE whatever."

EXHIBIT - 1

Therefore, the terms "salaries", "wages", "compensation" and "sources" are absolutely synonymous.

Additionally it is quite clear, that the President and Judges' "compensation" shall be included in Gross Income (Exhibit - 1) as enacted by the "PUBLIC (employees) SALARY TAX ACT of 1939"

EXHIBITS - 2 & 3

In 1954 however, the Congress decided to re-write the original statutory language contained in Sec. 22(a) of the I.R.C. of 1939 with the sole intention of simplifying the language, which appeared clearly comprehensible. The Congress asserted in the Legislative History, H.R. 1337 and S.R. 1622 of 92d Congress, that Sec. 61(a) of the I.R.C. of 1954 corresponds to Sec. 22(a) and the statutory Gross Income has not been affected thereby. At the same time the Congress revealed in the legislative History, that :

> ".....,no change is effected by the elimination of the specific reference to "compensation" of the President and Judges........; and the compensation of such individuals (President and Judges) will continue to be taxed in the same manner as that (gains & profits) of other taxpayers."

Attached please find a flowchart, which truly reflects the transition of meaning from the enacted law text to the newly re-written text contained in Sec. 61(a), in accordance with Legislative History. EXHIBIT - 1

Now then, inspite of all this, the I.R.S. still insists, that my salary or wages are forms of compensation and are included in Gross Income pursuant to Sec. 61(a)(1).

NOT SO -- The term "Compensation" (Sec. 61(a)(1) defined as Gross Income, is statutorily restricted to the President and Judges and other Governmental (State & Fed.) employees (see Public Employees Salary Tax Act), and does not include ordinary citizens.

[NOTE TO READER: Additional materials retained in subcommittee files.]

The Congress has NOT granted by Statute,or otherwise in law, to the I.R.S. the power to enlarge the concept of Gross Income by including the Sources of income (gains & profits) of private citizens.

This ofcourse raises several material questions:

1. By what Statute or other Congressional Authority may the I.R.S. include the Sources of income in computing Gross Income ?
2. By what Authority has the Internal Revenue Code "primary" Jurisdiction over this citizen, when in fact the socalled income tax is actually an indirect "Excise" tax intended to be imposed upon the Privilege of doing or carrying on business in a corporate form ?

EXHIBIT - 4

3. Why does the Congress consent to such deceptive and fraudulent methods of income taxation in the guise of a "Voluntary Taxation System" ?
4. Why can the I.R.S. not be compelled to put,whoever wants to know, to a clear revelation and truth of the laws and their intent ?

Instead the I.R.S. provides misleading information, as such is evident by comparing Exhibit - 5 and Exhibit - 4, in that the I.R.S. claims that the 16th Amend. gave Congress the power to lay and collect income taxes (Exh. 5) when in fact no new power to tax was conferred by the 16th Amend. (Exh. 4).

This then goes on and on !

The Question now is --- Isn't there anyone in Congress who can controll its creature, these un-american bureaucrats ?

But if the Congress cannot or does not do anything about this "INJUSTICE", in due time, the people will.

For further proof of other matters complained of , please find a copy of the "Verified Complaint/Demand recently submitted to the United States of America et al. for redress of grievances.

I hope that this information will shed additional light on a most urgent problem which Congress must deal with in the near future, as otherwise we may be facing another tax revelution.

Respectfully submitted

Helmut F Froeber 6/7/82

Helmut F. Froeber.

Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth H.O.B.
Washington, D.C. 20515
May 8, 1982

Dear Chairman:

This letter is in response to the hearings that will shortly be heard by this committee on IRS abuse of citizens rights.

The facts surrounding IRS abuse of my rights are as follows:

The IRS received a phone call from someone unknown to me on April 11, 1977 by Revenue Agent Lamb. I do not know the contents of the conversation. At any rate, the IRS began their criminal investigation of me base on the conversation of April 11, 1978 with the unknown informant. (the informant is known to the IRS) I was unaware of this criminal investigation until August 3, 178 when two agents from the Criminal Investigation Division appeared at my bathroom door at about 8:30 a.m. while I was brushing my teeth. They entered without my permission or anyone else's permission as I was the only one in the house at the time. The one agent identified himself and handed me his credentials. I later found out who the other one was. The two agents are Dewayne Weigand and David Blackorby. I was highly angry at this intrusion into my home. Their reason for being at my home which was then located in Oklahoma City was illegal in the first place. Since when has it become a criminal offense for someone not to have filed a tax return when none was legally due in the first place. Is everyone suspected of being a criminal just because they are not a person required to make, or file a tax return? Apparently the IRS thinks so! I tole the IRS to leave and they did. They returned to their unmarked car and stayed for another five minutes.

At the time of this IRS harrassment, I was a highschool teacher in a private Christian school. In the course of my teaching American History, Government, and Economics, I taught the true nature of what the constitution meant in regards to the authourity of Congress to tax and that the 16th Amendment did not give Congress any new taxing powers to tax a persons wages. A tax on people's wages is a direct tax and therefore not a source from which an income tax is derived.

In 1979, I had written a letter-to-the-editor of the Oklahoma City and Times rebutting a serious distortion of the truth concerning taxes put out by the IRS. The IRS had a copy of the article I wrote in their spy file. Incidentally, the spy file that the IRS has on me is 3 INCHES THICK! WHAT THE HELL ARE YOU DOING IN EMPLOYING A GESTAPO AGENCY IN AMERICA!

Any further questions that you may wish to ask me by letter or phone can be made at 214-264-3153 or 729 N.E. 31st Grand Prairie, TX or work phone 214-266-6105 where I am now working as a legal clerk for the Navy.

It is my sincere desire that these abuses by the IRS be sharply curtailed. IRS personnel who violate citizens rights should not have the privilege of being defended by the Justice Department. If these abuses are not corrected immediately then there will no doubt be a strong excercise of the second amendment by the citizens of these United States!

Sincerely,
Robert E. Godwin
Robert E. Godwin

[Note to reader: Additional materials retained in subcommittee files.]

Congressman Charles B. Rangel (Dem NY)

Subcom on Oversight
Rm 1101 -Longworth House Office Bldg.
Washington DC 20515

RECEIVED
APR 19 1982
Ways and Means
Subcommittee on Oversight

April 15, 1982

Gentlemen:

The enclosed five page statement is the essence of what would be my statement to the Congressional Committee investigating IRS abuses.

I am also enclosing an article entitled "Tax Wars" from the current (March) issue of San Francisco Magazine. This article is 99.99% accurate and contains the objective account of investigative reporter Gar Smith's look into how the IRS abused me and my family.

I am also enclosing the last two issues of my BILL GREENE NEWSLETTER which since the IRS singled me out for persecution, has grown from nothing to a circulation of over 100,000. Approximately this number of people have already made donations to my defense fund, and many have since written requests to have me pardoned, however, these requests have apparently never found their way to the President, but are being routed to the Department of Justice, the same agency that represented the IRS in persecuting me.

My newsletter exposures of IRS abuses (Project BOP and Use of Sleazy Underworld Informers) are often picked up by other newspapers and thus passed on to the population at large. Since my own mistreatment, I have taken up "the cause."

Finally, I include the appeal briefs from my case.

I would have been happy to appear personally, but to stay up all night on a flight at my own expense, for only five minutes of floor time, it would appear that a written presentation would be more useful for all concerned.

Your consideration, and my ability to review any IRS answers to my charges would be most welcome.

Sincerely,

WILLIAM GREENE, P. O. BOX 810
MILL VALLEY, CALIFORNIA 94941

A PARTIAL LIST OF THE ABUSES IN THE CASE OF
I.R.S. vs WILLIAM GREENE (Mill Valley, California)

1. INVESTIGATION BEGAN WITH A BASIC DECEPTION OF THE ACCUSED. The original IRS agent operating under the control of a special agent Dale Stevens trying to put together a criminal case, misrepresented himself as doing a civil audit for the purpose of securing the co-operation of Greene and the revealing of checking accounts and other balance sheet items that were neither taxable nor reportable to IRS. This information was pried out of Greene without Miranda warnings or supplying him information that the IRS had received a tip from an incarcerated felon eager to shorten his sentence by falsely accusing Greene of income tax evasion (Tony Juliano was apparently given favorable consideration for his role as an IRS informant although none of his evidence produced at trial was detrimental to Greene) USING SLEAZY UNDERWORLD FIGURES (in this case a former tenant of Greene's who was disgruntled because he was evicted for dope dealing on property owned by Greene) AND GIVING THEM SUBSTANTIAL REWARDS FOR FALSE INFORMATION AND TESTIMONY ITSELF SEEMS TO BE AN ABUSE.

From the start of the Greene investigation, to its finish, Special Agent Dale Stevens who specialized in Mafioso/mob investigations (but was generally unsuccessful in those) used organized crime fighting techniques to ensnare Greene whose only "crime" in twenty years was stealing an ashtray from the Stork Club in 1961. Feeling guilty, Greene paid for the ashtray.

2. THE ENTIRE GREENE CASE FROM START TO FINISH WAS ACCOMPANIED BY A BARRAGE OF NEWS RELEASES AND T.V. APPEARANCES BY DEPARTMENT OF JUSTICE OFFICIALS WHO FED THE PUBLIC ENTIRELY FALSE AND MISLEADING INFORMATION. The case was started by a TV statement that the IRS was out to get tax rebels like Greene who waived red flags and told people they didn't have to pay taxes.* When Greene went on TV to defend himself and clearly showed he was no "rebel" and that he only used governmen approved devices (depreciation, tax credits, etc.) to reduce his taxes and the taxes of other the IRS then leaked the story of "GREENE'S HIGH LEVEL DRUG LINKS" which once again proved to be nothing more than fluff. Once convicted, Henry Wycowski of the Department of Justice, working closely with the IRS, personally called the editor of the Independent Journa and announced that Greene would be hounded by the IRS until he didn't have a penny left, and that for starters the government was demanding a million dollar cash bail, a figure normally reserved for the likes of John Dillinger or mass murderers.

3. IRS AGENTS WASTED HUGE AMOUNTS OF MONEY (at this point probably in excess of $2.000.000.000 of taxpayer's money) IN THE INVESTIGATION AND PROSECUTION OF A CASE THAT THEY KNEW EARLY ON INVOLVED NO TAX EVASION AND NO TAX LIABILIT AND WAS CONDUCTED ONLY FOR THE PURPOSE OF GAINING PUBLICITY, AND FINANCIAL DAMAGING A VOCIFEROUS IRS CRITIC. IRS agents interviewed between 250 and 350 witnesses most of whom were childhood playmates and ex-girl friends, plus ex-girl friend's mothers. These interviews provided agent Stevens with worldwide junkets and opportunities to meet good looking women (and their mothers) at taxpayer expense.

* [illegible] newsletters & [illegible] etc.

MILL VALLEY, CALIFORNIA 94941

4. IRS STANDARD OPERATING PROCEEDURES INVOLVE THE INTIMIDATION OF WITNESSES AND AN ATTEMPT TO BRING A POTENTIAL DEFENDANT TO HIS KNEES LONG BEFORE TRIAL BEGINS. WITH GREENE, THE IRS FOUND A DEFENDANT WHO WAS WILLING TO STAND UP TO THEM AT GREAT COST TO HIMSELF.

IRS agents arrested through contacts at another government agency /and held overnight on a false charge Greene's star witness IN THE COURTROOM WHERE GREENE WAS ON TRIAL. The arrest was ostentatiously made in front of Greene's other witnesses as a 65 year old man [illegible] never involved in any violence, was brutally CUFFED chained and dragged out of the courthouse TO SPEND THE NIGHT IN FEDERAL PRISON. This event was seen by one of the jurors and had a chilling effect upon Greene's [illegible] other defense witnesses.

IRS agents repeatedly told Greene's bankers not to lend him any more money, or to extend any credit to him because Greene was going to be "put away for a long time." This resulted in the collapse of Greene's credit with Wells Fargo Bank, Crocker Bank, and Bank of Americ

and the speedy demise of his real estate business.

IRS agents"interviewed"Greene's 100* tenants and caused some of them to move out.

IRS agents "interviewed" people who owed Greene money and intimated that they would now feel the full weight of IRS pressures as a result of doing business with [illegible] This resulted in the default of major debtors (Pettolino, Rezaian ?, Rossi ?) and the need for Greene to spend vast amounts of time and money in litigation to collect what was due him at a time when resources were needed to further defend against the IRS assaults.

IRS agents interfered with Greene's social relationships by indicating to Greene's ex-wife, Melissa that her support would be cut off when Greene was jailed; Greene's present wife Elizabeth was literally driven insance by IRS Pressures and constant harrassment [phone tapping, mail opening, surveilance, etc.].

IRS agents appeared unannounced at the home of Greene's aged parents, after dark, and menacingly forced them to sign untrue affidavits after rousting them out of bed. Mrs. Greene, a refugee from Nazi Germany found this to be a repeat of her experiences with the Gestapo. Mr. Greene had an immediate heart attack, and after lingering a few years DIED AS A DIRECT RESULT OF IRS INTIMIDATION !

IRS agents appeared at the homes and offices of many business associates and friends, and in a parody of old movie "G" Men, asked for books and records (without warrants) and made such statements as "If you don't give them to us, you'll have to come down to the station for questioning." The Agents had a great [illegible] "fun" time, but hundreds of my friends were terrorized. The previous statement was made to the assistant of Dorothy Barnhouse my administrative aide, at her home.

5. BY THE TIME OF MY TRIAL I WAS ONE OF THE MOST WELL KNOWN ANTI-IRS AUTHORS AND LECTURERS IN AMERICA, AND THIS WAS ONE OF THE MAIN REASONS, IF NOT THE

MILL VALLEY, CALIFORNIA 94941

ONLY REASON THAT THE IRS THREW CAUTION TO THE WINDS, AND APPROPRIATED UNLIMITED FUNDS AND MAN-POWER TO BRING ABOUT MY CONVICTION. YET THE IRS AND IT'S DEPARTMENT OF JUSTICE COHORTS LIED OVER AND OVER AGAIN* UNDER OAT. AND IN VARIOUS DOCUMENTS THAT THEY WERE UNAWARE OF ANY SUCH ACTIVITIES ON MY PART, AND THAT IF THERE WERE ANY, THEY PLAYED ABSOLUTELY NO ROLE IN THEIR DECISION TO PROSECUTE GREENE. Secret IRS documents.* and television video-tapes of IRS public statements DIRECTLY CONTRADICT these IRS contentions, and the IRS or Wycowski admitted to investigative reporter Gar Smith[2] that the IRS suspected my case would be dismissed for "selective prosecution" before trial. The IRS admitted to Smith that the story of my "dope connections" was concocted out of thin air as a cover-up for the real reas that the IRS was expending so much time and energy on my case: the true reason being that I was a well known author and lecturer, the case had enormous publicity potential for them -- even though they knew I was innocent.

6. FACTUAL EXONERATING EVIDENCE THAT THE IRS KNEW WAS TRUE WAS FALSELY CHARACTERIZED AT TRIAL AND DISCREDITED APPROXIMATELY ONE DOZEN TIMES BY THE JUDGE ON THE CASE (A PRO IRS FIGURE).

The main thrust of the IRS case against Greene at trial was that he had approximately $200,000 of unexplained income from 1972-74. Greene's main defense was that he had opened an account with the Bank of Liechtenstein in 1962 with legally obtained, taxed money, and that "unexplained" income alleged by the IRS was fully explained by copies of bank statements showing withdrawals from Liechtenstein of the amounts involved in the years in question. The IRS in it's investigation learned that Greene had foreign accounts, and in post trial papers admitted he had this foreign account, but at the trial took the bad faith position that the account didn't exist, and the ~~papers~~ statements [illegible] were either forged or falsified. The fact that Greene had foreign accounts (over 25) was duly shown on ALL GREENE'S TAX RETURNS but the IRS took the position in preparing a "net worth case" that there were NO FOREIGN ACCOUNTS, and that Greene's total "cash in banks" atthe starting period was only "$45." Even though Greene had been a millionaire for many years earlier the IRS intentionally ignored known bank accounts and deposits to give him a starting net worth approximately $200,000 below his actual net worth at the time in order to create a [illegible] case of tax evasion. THE NET WORTH TEST itself, designed to ensnare Al Capone, is basically unfair to any honest businessman because (applied as it was in the Greene case) it placed the entire burden of proving innocence on the defendant NINE YEARS AFTER THE FACTS by requiring for [illegible] defense, the production of documents that in most cases no long would exist. Greene had an airtight defense, to the surprise of the IRS and his own lawyers only because (unlike USA banks who destroy records after 5 years), the Liechtenstein bank preserves them indefinitely, and delivered them to the defense just before Greene's trial started. Yet the IRS prevailed upon the judge to direct the jury (over ten times) to regard those defense documents with "suspicion, skepticism, and distrust."

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* See newsletters for exact terms & statements [2] See [illegible]

I

7. The IRS completed its investigation in 1978. They were known to have been investigating Greene's 1972-73 tax liabilities. Greene had so many "tax losses" during those years that the IRS would have had to come up with over $100,000 in unreported income to get him in a position where any tax at all was due. When no action was taken by 1980, Greene assumed that the statute of limitations had run and the IRS had decided not to prosecute. Records prior to 1973 were destroyed. At trial, with a strained interpretati of the statute of limitations, and the "net worth case theory" they were permitted to introduce detailed statements starting in 1972 that defendant was unable to counter because of unavailable records. IT IS AN ABUSE OF THE TAXPAYER TO CAUSE HIM TO AFFIRMATIV LY PROVE HIS INNOCENCE IN COMPLEX FINANCIAL MATTERS NINE TO TEN YEARS AFTER THE FACTS HAVE OCCURRED AND WHEN THE COMMON BELIEF IS THAT RECORDS MAY BE DESTROYED AFTER 3 to 5 YEARS. The IRS theory is that non-co-operation by the taxpayer in producing (or agreeing to the production of documents by others) tolls the statutes of limitations forever. This position effectively nullifies the protections of the 5th Amendment which allow a defendant to refuse to bear witness against himself and is a basic American Freedom.

8. IT IS GREENE'S BELIEF THAT THE IRS SPENT A GREAT DEAL OF TIME AND MONEY ON HIS CASE FOR SEVERAL IGNOBLE REASONS:

A) TO FINANCIALLY DECIMATE GREENE FOR HIS BLOWING THE WHISTLE ON IRS INTIMIDATION TACTICS, AND THE BASIC UNFAIRNESS OF THE TAX SYSTEM IN GREENE'S BOOKS AND LECTURES. THIS WAS SELECTIVE PROSECUTION IN VIOLATION OF GREENE'S RIGHT TO FREEDOM OF SPEECH AND EXPRESSION. THE IRS IN IT'S "SECRET MEMORANDUM" (AND PROBABLY IN MANY OTHER DOCUMENTS THAT HAVE BEEN WITHHELD OR SENT TO THE PAPER SHREDDER) ADMITTED THIS.*

B) TO JUSTIFY THEIR "NEED" TO CONGRESS FOR AN EXPANDED STAFF AND EXPANDED BUDGET. THE IRS CAN NOW CLAIM THAT IT TOOK TWO MILLION DOLLARS (OR WHATEVER IT COST) TO "GET" Greene AN ALLEGED TAX REBEL IN CALIFORNIA. TO "GET" OTHERS LIKE HIM ~~WE~~ [illegible], WILL NEED ANOTHER HUNDRED MILLION. THE TRUTH IS THAT BEFORE THE IRS USED IT'S HIGH HANDED GESTAPO METHODS ON ME AND MY FAMILY -BEFORE MY FATHER WAS MURDERED BY THEM AND MY WIFE WAS DRIVEN TO INSANITY, BEFORE MY BUSINESS WAS RUINED, MY FRIENDSHIPS DESTROYED, AND I WAS FINANCIALLY REDUCED, I HAD NO GRIPES AGAINST THE IRS EXCEPT IN A GENERAL WAY. THE IRS HAS NOW CREATED A FOE WHO WILL FIGHT AND WRITE FROM A JAIL CELL FOR SEVEN YEARS IF NECESSARY, AND WHO MAY HAVE TO COME TO THE CONCLUSION THAT FILING AN HONEST RETURN IS NO GUARANTY THAT THE IRS WON'T ARRANGE TO HAVE YOU INCARCERATED. PERHAPS MISDEMEANOR NON-FILING IS SAFER [illegible]

P. O. BOX 810
MILL VALLEY, CALIFORNIA 94941

Rancho Verdi

P.O. Box ~~408~~ 810
Mill Valley, CA 94941
(415) 383-3229

RECEIVED

APR 22 1982

Ways and Means
Subcommittee on Oversight

Dan Russo, Staff Atty, Ways & Means Comm-Subcom on Oversight
Rm 1101 Longworth -House Office Building
Wash. DC 20515

April 19, 1982

RE: HEARING ON I.R.S. ABUSES -April 26, 1982

Dear Mr. Russo,

I rushed to get a package out to you last week, but forgot to include the copies you asked for.

Here is hoping that you get this note in time for the April 26th meeting.

I have revised my statement slightly, making it more coherent and to the point.

Every statement is supported by abundant evidence -- but the IRS is holding on to the material that would really show just how much in the wrong they are.

Naturally, I give the IRS or any other Govt Agency including the Dept of Justice, full permission to make public MY ENTIRE FILE (not just the parts that support their ~~untenable~~ position).

Your interest in my case has brought some hope into my life. I was beginning to feel that even with the support of 100% of the populace, no one in the Courts, Executive, or legislative branch would pay any intention to blatant injustices.

6 COPIES
ENCLOSED

Cordially,

WGreene

WILLIAM GREENE

cc: Erwin Hytner
10386 Maywind Ct.
Columbia, Md 21044

STATEMENT OF WILLIAM GREENE RELATING TO IRS ABUSES

April 19, 1982

In the mid-1970's I attracted the attention of the local San Francisco IRS office because of publicity I had received on my free "Tycoon Classes." In these lectures I told the general public (on radio, television and in press interviews) that in my opinion, due to government inspired inflation and high taxes, leveraged investments in real estate would provide a way to become rich, and legally pay little or no Federal Income Taxes in the process. As it turned out, many thousands of Californians read my books, heeded my message, invested in real estate, took their depreciation allowances and tax credits, paid little or no taxes legally, and became millionaires. I followed my own advice, and did as well as most of my students.

In 1978, the Internal Revenue Service recommended that I be selected for prosecution, that my case be given maximum publicity, and a long prison sentence be arranged. The SOLE reason was that "... he is actively instructing seminars in 'tax avoidance' and how to make millions without paying taxes. Prosecution of Greene may act as a deterrent to further attempts by other individuals to evade (sic) income taxes." This memorandum was in the secret report of Dale S. Stevens, Criminal Investigator, US Treasury, IRS, dated 30 Nov. 1978, Pg 42. Selective Prosecution is and always has been prohibited in the United States of America by the equal protection clause of the US Constitution.

I was prosecuted by the IRS because the IRS wished to discredit my writings, lectures and the tax redution movement of which I was part. I was on the original steering committee for Proposition 13 (reduction of real estate taxes), I was nominee (Libertarian Party) for Vice-President of the United States; and I was a leading proponent of a flat 10% gross receipts tax to replace the income tax.

When I was eventually brought to trial, in an interlocutory appeal for selective prosecution, the Department of Justice denied any knowledge of my lectures and the books I had written on IRS abuses. They all denied under oath that any of their secret internal memorandums or similar documents would indicate that I was being selectively prosecuted. The above memoradum was (fortunately) obtained later. But many other similar documents bearing on my case are still hidden by the Department of Justice and the IRS. I have been unable to obtain them, and the IRS denies they exist, just as they once denied under oath that the above quoted memorandum ever existed.

I understand that the amount of money and manpower devoted to getting a conviction against me has now exceeded $1,500,000.00. In a world with many urgent needs, it seems strange that so much time and money should be appropriated to contrive the criminal conviction of a popular author whose most serious crime was publishing unflattering cartoons about the IRS. The internal records of the IRS might indicate a far higher investigative prosecution cost since the investigative and legal work included interviews with some 300 childhood playmates, school chums, girl-friends, and mothers of ex-girlfriends, all of whom were asked to provide "dirt" which might provide useful material to smear me in the press prior to any prosecution.

Contact with me by the IRS began with a BASIC DECEPTION which I understand is standard operating procedure in all IRS criminal cases of my type (political). I was induced to provide an ordinary (civil) IRS agent with information and records that are not normally reportable on income tax returns, viz: balance sheets, copies of personal checking account statements, and information on non-income earning foreign assets. After being lied to that a "routine audit" was involved, this information was immediately turned over to Dale Stevens a "special agent" in charge of criminal investigations who had PREVIOUSLY BEEN INSTRUCTED or had decided that I was to be ensnared in a "net worth case." I was to be paraded as an EXAMPLE to show off the immense power of the IRS to custom construct a "tax crime" that can be used to nail any citizen in the USA no matter how honest. IRS internal memorandums concealed from me or dumped in the paper shredder would clearly indicate that long before I was given any "Miranda Warnings" the IRS fraudulently got me to bear witness against myself by not informing me that a criminal audit was in progress, after I had been targeted for selective criminal prosecution.

The same "secret memorandum" containing the true reason I was selectively prosecuted, also contained information that the entire IRS case against me was constructed on a falsehood:

> The key to any "Net Worth Case" is an accurate opening and closing net worth. If the IRS knew that they were not presenting a complete record of every asset they had no case. At my trial the IRS took the position that I (although a known millionaire) had only $45 in banks in total at the start of their arbitrarily selected net worth period. They knew I had lived in Europe, and having attended my lectures and read my widely published books they knew that I kept substantial assets in foreign banks. Additionally, I had reported on my tax returns themselves that I owned or had an interest in several foreign accounts. On page 41 of

their "secret report" recommending prosecution, agent Stevens reported:

> "... he (Greene) has foreign accounts in countries protected by bank secrecy laws."

Yet at the trial, in total disregard of information concealed in their own files, the IRS took the position that I had no foreign accounts, and that assets I transferred from my foreign accounts to the USA was unreported illicit income. They knew that the foreign bank statements I provided at my trial were true and accurate. But by inducing the judge to comment to the jury that these records were to be viewed with "grave skepticism and doubt" my main defense was undercut, and I was unable to prove my innocence.

Unfortunately, in a net worth case, the government does not prove guilt, the defendant must prove his innocense, and this was impossible for me to do. As a result although innocent I was sentenced to two years in jail, five years on probation, and hit with the largest fine ever given in such a case.

Other abuses which I will not go into detail about included in my case: Illegally tapping my phone for over two years, and intimidating those persons whom I called or who called me to provide "dirt" that could be used at my trial. Illegally opening all my mail for a similar period with similar follow up.

Falsely accusing me in the public press of being involved in narcotics traffic when all the investigators knew I was opposed to all drugs, including tobacco and hard liquor.

Intimidating my bankers, accountant, and professional colleagues into not doing business with me upon penalty of they themselves being harrassed by the IRS.

Rousting my aged parents out of bed, after dark in Chicago, terrorizing them into signing a false document about me, and causing my father to have an immediate heart attack. He eventually died as the result of IRS harrassment.

Intimidating persons who owed me money or were my tenants to stop paying me or move out of my property.

Intimidating a Federal Judge, after a private interview to which neither myself nor my lawyer were privvy, into ordering me incarcerated without good reason for five days so that the IRS could get publicity designed to terrorize the average citizen before tax time.

Issuing a blizzard of news releases to the Press, demanding $1,000,000 bail and making knowingly, false statements to the public that I was a drug dealer, illegal tax resister, and the ringleader of the tax revolt; that I would be jailed and denuded of all my assets -- and generally staging a show trial typical of Nazi or Communist regimes, formerly anathma in the USA.

Making much of the fact that the woman I live with and have a child by were not married, and thereby and by putting many other pressures upon her, driving her to the point of insanity where constant psychiatric care is now required.

As per your request, I give my permission to the IRS, Department of Justice, or any other Government Agency to release ALL files for Congressional inspection in connection with my case, particularly those documents dealing with why and how the decision to prosecute me was made, and all documents relating to foreign accounts known at the time of my trial.

APRIL 19, 1982 William Greene

Box 810
MILL VAlley, CAL 94942
Phone 415-383-8264

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,)
Plaintiff-Appellee,) NO. 81-1405
v.)
WILLIAM GREENE,)
Defendant-Appellant.)

APPEAL FROM UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

APPELLANT'S REPLY BRIEF

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Attorneys for Defendant-Appellant
WILLIAM GREENE

WILLIAM GREENE, P. O. BOX 810
MILL VALLEY, CALIFORNIA 94941

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v.) NO. 81-1405
)
WILLIAM GREENE,)
)
Defendant-Appellant.)
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FOR THE NORTHERN DISTRICT OF CALIFORNIA

BRIEF OF APPELLANT

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[illegible]
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Defendant-Appellant.)
)

BRIEF OF APPELLEE

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To the Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives regarding Hearing on Taxpayers Safeguards.

Following is my written statement for inclusion in the Printed Record:

1. That from August 1970 until the present time the I.R.S. has continually broke the law by violating my constitutional and civil rights.

2. Since August 1970 to the present I have been under criminal investigation by the I.R.S. for petitioning for Redress of Grievances.

3. The I.R.S. has never responded or answered to my petitions.

4. The I.R.S. has constantly harassed me by walking into my office - unannounced on many occasions, with firearms and without a civil or criminal warrant threatening me and demanding information. Refusing to answer my questions and/or complete a public servants questionaire as required by the privacy notice.

5. The I.R.S. has harrassed my family and my friends of both the business and social communities.

6. The I.R.S. has embarrassed and belittled me on numerous occasions by their investigatory and inquisitory confrontations of my friends of the business and social community to my personal loss and irreparable damage.

7. The I.R.S. has made up assessments on three different occassions, out of thin air, without validity in total violation of Due Process of Law.

8. The I.R.S. has demanded sums of money that were not due and owing by me.

9. The I.R.S. has filed Judgements against me without said Judgements being lawfully gained under Due Process of Law and has entered judgement in the U.S. Federal Court for the Western District of Pennsylvania in disregard of admitted facts and Court rules.

10. The I.R.S. is presently attempting to levy on property under my control without a lawful judgement secured by Due Process of Law as required by the Constitution.

Respectfully submitted by,

Raymond M. Hartman

Raymond M. Hartman,
201 Jefferson Street
Rochester, Pa. 15074
Phone (412) 775-2929

Darryl Heffner
P.O. Box 32
Loving, Tx. 76062
May 24, 1982

I, Darryl Heffner, include this statement as part of the printed record of the Committee On Ways and Means hearing of the Internal Revenue Service abuses to citizens, held April 26, 1982.

The Internal Revenue Service has abused me by withholding money out of my compensation for labor (wages, commissions, tips). This is direct taxation by the Federal Government. The Federal Government is not allowed by law to directly tax the citizens of the Soverign States' compensation for labor (U.S. Constitution; Article 1, Section 2, Clause 3). The Supreme Court of the United States has ruled many times a direct tax by the Federal Government to be unconstitutional. The original intent of the 16th Amendment was an excise tax upon profits derived from a source. Today, it is understood as a new power granted to Congress for the purpose of directly taxing a citizens' compensation for labor.

No new taxing power was granted to Congress via the 16th Amendment. Understanding the 16th Amendment in its true interpretation, did not further extend the taxing power of the Federal Government, but in fact, restricted it.

The direct tax upon citizens' compensation for labor began during the second World War, with the intention of paying for the war effort. This tax act was known as the "Victory Tax Act of 1943." For this reason the taxing system upon citizens' compensation for labor is known as a "Voluntary Compliance Taxing System."

The tax upon citizens' compensation for labor is publicly addressed as voluntary. However, the tax is collected forcibly. No government official has asked me, or the present generation, if we would volunteer to pay this tax. The previous generation was asked to comply. The present generation is forced to comply. Therefore, the U.S. Congress has violated my rights by directly taxing me and this present generation with a "voluntary tax" which we are forced to pay.

The war has been over for almost 40 years and this direct "Voluntary Compliance Taxing System" must come to an end. Congress' deception and forceful tactics to collect a "Voluntary Tax" will not be tolerated.

Darryl O. Huff

Route 2, Box 17-A
Mancos, CO 81328
May 17, 1982

The Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Longworth House Office Building
Washington, D.C. 20515

RE: Hendrickson, Wil
Statement in lieu of
Personal Appearance for
Hearings after June 1, 1
Also file dated 1/13/82
and 1/18/82.

Dear Mr. Rangle:

In compliance with PR #18 which accompanied your lette to me dated April 8, 1982, the following is submitted in regard to above captioned:

TOPICAL OUTLINE

A. Supreme Court case citations in support of ruling that the 16th Amendment CANNOT be a DIRECT tax, but MUST be an INDIRECT (EXCISE) tax based on a "privilege". (Exhibit "A")

B. Withholding Repealed in 1946 (Exhibit "N") See Article I, section 8. clause 12, U.S. Constitution, together with Supreme Court cases in support of this termination on reverse side of Exhibit "N" and labelled Exhibit "N-2".

C. Forms W-2 for those years in question.

D. Levy without due process of law (USAFAC Form 20-109, dated Nov. 12, 1981 and Form 668-W (Rev. 12078), dated Sep. 11, 1981, labelled Exhibits "H" and "H-1".

E. I hereby certify that these amounts were actually withheld from my wages checks in the case of withholding W-2 forms, and levied on my disability retired pay, unlawfully, and without the ruling of a Court of competent jurisdiction.

SPECIFIC COMPLAINT

I. Violation of First Amendment Right to Petition Government for Redress of Grievances.

A. Above has been submitted on numerous occasions by certified mail with return receipt. It is never answered but usually followed by increased harassment, coercion, liens, and levies, w/o due process of law.

II. Violation of 4th and 5th Amendment.

B. Invasion of my privacy (person, property, and papers -

[NOTE TO READER: Additional materials retained in subcommittee files.]

Disability Retired Pay - without a warrant and without due process.

III. Violation of 6th and 7th Amendment.

A. Right to a speedy trial by jury in controversies involving $20. or more. The burden of proof is rightfully on the IRS to prove me guilty, rather than my having to prove myself innocent.

IV. Violation of 8th Amendment.

A. Right not to be subjected to cruel and unusual punishment (harassment, coercion, intimidation, loss of reputation in community under a cloud of immense fear, or the imposition of excessive fines.) (See I and II above)

V. Violation of 13th Amendment.

A. Unlawful extortion of Withholding when law related thereto self-destructed no later than January 1946.

DEMAND

A. Refund of all monies previously withheld and levied upon together with interest to date of refund.

	WITHHOLDING		LEVY
1976	$33.39	Nov. 1981	$647.24
1977	614.80	Dec. 1981	647.24
1978	122.39	Jan. 1982	647.24
1979	110.99	Feb. 1982	647.24
Total	$871.57	Mar. 1982	212.55
		Total	$2,801.51

	$2,801.51
	871.57
Grand total	$3,673.08, PLUS INTEREST and PENALTY 'til date of refund.

B. After monies have been refunded, and should the IRS feel that they have a legitimate complaint against me, then I will be more than happy to defend my position in a Common Law Court and before an unbiased and Common Law Judge.

P.S. Will be happy to furnish any additional information that might be useful to the committee.

Respectfully submitted,

Wil Hendrickson

Wil Hendrickson
(William H.)

[NOTE TO READER: Additional materials retained in subcommittee files.]

April 15, 1982

The Honorable Charles B. Rangel (D-N.Y.)
Chairman, Subcommittee on Oversight,
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

RECEIVED
APR 21 1982
Ways and Means
Subcommittee on Oversight

RE: TAXPAYER SAFEGUARD HEARINGS AND UNLAWFUL IRS ACTIVITY.

Dear Cairman Rangel,

Please enter the following remarks into the record as testimony in the taxpayer safeguard hearings.

In the middle 1970's I paid the IRS and had the cancelled check in my hand when they notified me of a lien on my property. My credit was ruined and I still do not have credit since that time. A month later the IRS withdrew the lien and two years later sent me two letters of apology, with the help of Senator Alan Cranston. Those apology letters had no effect in helping my credit rating.

In 1980 the IRS disallowed ALL BUSINESS DEDUCTIONS. Without any court order and in defiance of a bankruptcy trust officer they levied on bankruptcy assets. All this was done without a court order.

I recommend the following solutions to IRS abuse of taxpayers:

1. A law requiring a court order for property liens.
2. Passing HR 4931
3. Requiring 1 year of accounting training for all IRS agents.
4. Allowing tax preparers, accountants and bookeepers to represent taxpayers before the IRS and U.S. Tax Court.
5. Make all IRS agents civilly liable for the violation of taxpayer privacy by a $500 small claims award if the agent mades an incorrect statement, or assessment on the person.
6. Eliminate the criminal penalties of Title 26 §7201, 7203 and replace them with civil penalties after a common law trial in U.S. DIstrict Court. When a taxpayer is in jail you can't get any taxes out of him at any level. If the IRS can prove he owes the tax you can get the tax through legal processes and he is still paying state and federal tax.
7. The IRS should become an agency of the U.S. Congress. Only congress is authorized to lay and collect taxes. In this way each congressman could have direct control over the IRS.

I declare under penalty of perjury the the above testimony is true and correct to the best of my knowledge and belief. Dated April 15, 1982 at Los Angeles, California. (CCP 2015.5)

Signed Rev. Bradford Henschel
Rev. Bradford Henschel
P.O. Box 4578
Inglewood, Ca. 90309

ATTACHED EXHIBITS

Strip mend

BK-Ret for Record   testimony on IRS abuse

April 15, 1982

RECEIVED
APR 21 1982
Ways and Means
Subcommittee on Oversight

DOC #
REC #
AIDE: APR 19 1982
CAT:
PARA:
COMMENTS:

Dear Rep. Rangel,

The IRS has been harassing me for years. They do things that has been outlawed to any other collection agency.

You should put IRS into the Congress and give each Congressman authority over all IRS in his area, even to stop all action on given cases.

Also you should enact HR 493.

Please enter this letter into testimony.

Randall Hunt
235 N. Broadway
Orcutt, Ca. 93454

LEO ITZ TRUST
Leo Itz, Manager Trustee
Route 1, Box 330
Fredericksburg, texas 78624

May 10,1982

Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representative
1102 Longworth H.O. B.
Washington, D. C. 20515

Re: Written Statement in Lieu of Personal Appearance

Dear Sirs:

My name is: Leo Itz of Route #1, Box 330; Fredericksburg, Texas 78624; phone number 512/997-4449 and am the Manager Trustee of the Leo Itz Trust. Am only representing this one interest, being the Leo Itz Trust.

Statement: On November 4,1980, we received from the Internal Revenue Office of 300 East 8th Street; Austin, Texas 78701, their letter Form 1085, dated November 3,1980 including a Form 941, Employer's Quarterly Federal Tax Return, Prepared by the I.R.S. for our signature. (Note: The Leo Itz Trust never had employees, it only contracts.)

We mailed a Certified Return Receipt letter on November 20, 1980, stating we had no knowledge of any such figures as they stated. The I.R.S. has not to this date answered this letter, but the I.R.S. totally disregarded it (letter) and June 17,1981 the I.R.S. filed Form 668 Notice of Federal Tax Lien.

We have no record of any employees nor has the I.R.S. any record of the Leo Itz Trust to have any employees in the materials I.R.S. has. IN fact no employees existed ever for the Leo Itz Trust.

This lien was placed falsely and caused the Leo Itz Trust much anquish as all properties were tied up because of this false lien causing a Bank Forclosure, Savings and Loan Forclosure, where upon the Trust sold at a despearing LOSS, properties that were not intended ever to be sold, as, this property had been in the family since 1853.

The I.R.S. truly abused its own regulation namely Section 3401 (a)(b)(c)(d) invalid as the Leo Itz Trust does not fit into this section by reason of Contracts making Section 3402 (a) also invalid as no employees existed. So therefore The Leo Itz Trust was "not Required" to make a Form 941 Return. Therefore by "not required to file" The Leo Itz Trust exercised its rights and duty by not filing illegally Form 941.

Under Section 6020 (b)(1) the I.R.S. itself did....., or makes, willfully or otherwise, a false or fraudulent return,.....to the Leo Itz Trust. And because of this abuse the Leo Itz Trust suffered very very very much.

We therefore submit this to the Committee with hope the Committee will use this to bring about Legislative action to correct and bring back to us Liberty, Freedom, and Justice.

Yours truly,

Leo Itz
Route #1,Box 330
Fredericksburg, Texas
78624

COMMITTEE ON
RECEIVED
MAY 18 1982
WAYS AND MEANS

GUY W. JOHNSON
ATTORNEY AT LAW
TEXAS COMMERCE BANK · HILLCREST
6517 HILLCREST AVENUE · SUITE 209
DALLAS, TEXAS 75205
(214) 361-8941

SPECIALIZING IN TAX PROBLEMS
30 YEARS WITH IRS

GUY W. JOHNSON, INC.
A PROFESSIONAL CORPORATION

OS

May 14, 1982

John J. Salmon, Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Salmon:

Your committee is currently interested in hearing about inequitable or arbitrary treatment of taxpayers. Let me mention a few:

First let me say I am a retired IRS employee. I have been practicing law since my retirement seven years ago.

The things I have discovered have amazed me. While you in Congress have passed laws pertaining to the behavior of creditors - as to harassments, etc. - they are not applicable to IRS. Their authority is unchecked.

The average revenue officer is not too well educated or trained; because of this he cannot qualify as an Internal Revenue Agent. Yet he is given unlimited authority to:

(a) Seize your personal residence and sell it - no notice required;

(b) Sieze your house and sell it;

(c) Levy on your salary (except $50.00 per week plus $15.00 per dependent).

(d) Padlock your business.

Thus the decision to allow a business to continue to exist is in his hands. Not only is his judgment not subject to court approval, you are prescribed by an anti-injunction statute from interfering.

The owner of a residence can be put out in the street by selling his residence.

An employee can be forced to quit his job and draw down his retirement benefits at his place of business - under threat of levy on his salary.

These are things which I have encountered personally - not mere theories.

But a major problem comes from the fact that withholding and social security taxes are not subject to the discharge features of the Bankruptcy Act.

I have recently observed a client (black merchant) being allowed to enter into an installment payment agreement in which he agreed to pay $50.00 per month to discharge a $37,000 tax liability. This agreement is subject to review each year, so if he gets a better job the amount can and will be increased; in effect - a LIFETIME SENTENCE - since the tax liability obviously cannot be paid. His sin: he refused to withhold income and social security taxes on his employees.

So - Congress said you will withhold - and if you do not we will saddle you with a lifetime undischargeable debt.

If the Revenue Officer wishes to go further, he can serve the employer with a Form 2481 and make his failure to withhold a misdemeanor, punishable by a year in jail and/or a $5,000.00 fine for each failure to withhold and deposit payroll taxes.

It is hard to decide what to do with such tax delinquents; but it occurs to me that their sin in borrowing trust funds is no different than that of the Federal Government itself; certainly the Government spends these trust funds.

It does appear to me that the following procedures should be instituted;

(a) Make the debts dischargeable in bankruptcy after three years. If the IRS can't collect the debt in three years, they probably are going to be unable to do so anyway. It is logical to limit the assets that a taxpayer can keep to the Federal exemptions (not the State - ours are too generous).

(b) The unchecked authority of a revenue officer should be limited to a review to determine the advisability of padlocking and selling a business OR a personal residence; or seizing an entire salary; or anything which could cause unusual hardship. That review should be made by some person not under the supervision of the IRS; perhaps a U.S. Magistrate; perhaps an ombudsman.

The unchecked authority of a revenue officer is bone chilling - even to me as an attorney. It is greater than that of any other enforcement officer - and is broader and affects more lives. It comes, not from the commission of a crime, but from the mere existence of a debt to the Government.

It, therefore, seems to me no more sacred than the debt to a bank or a savings and loan association.

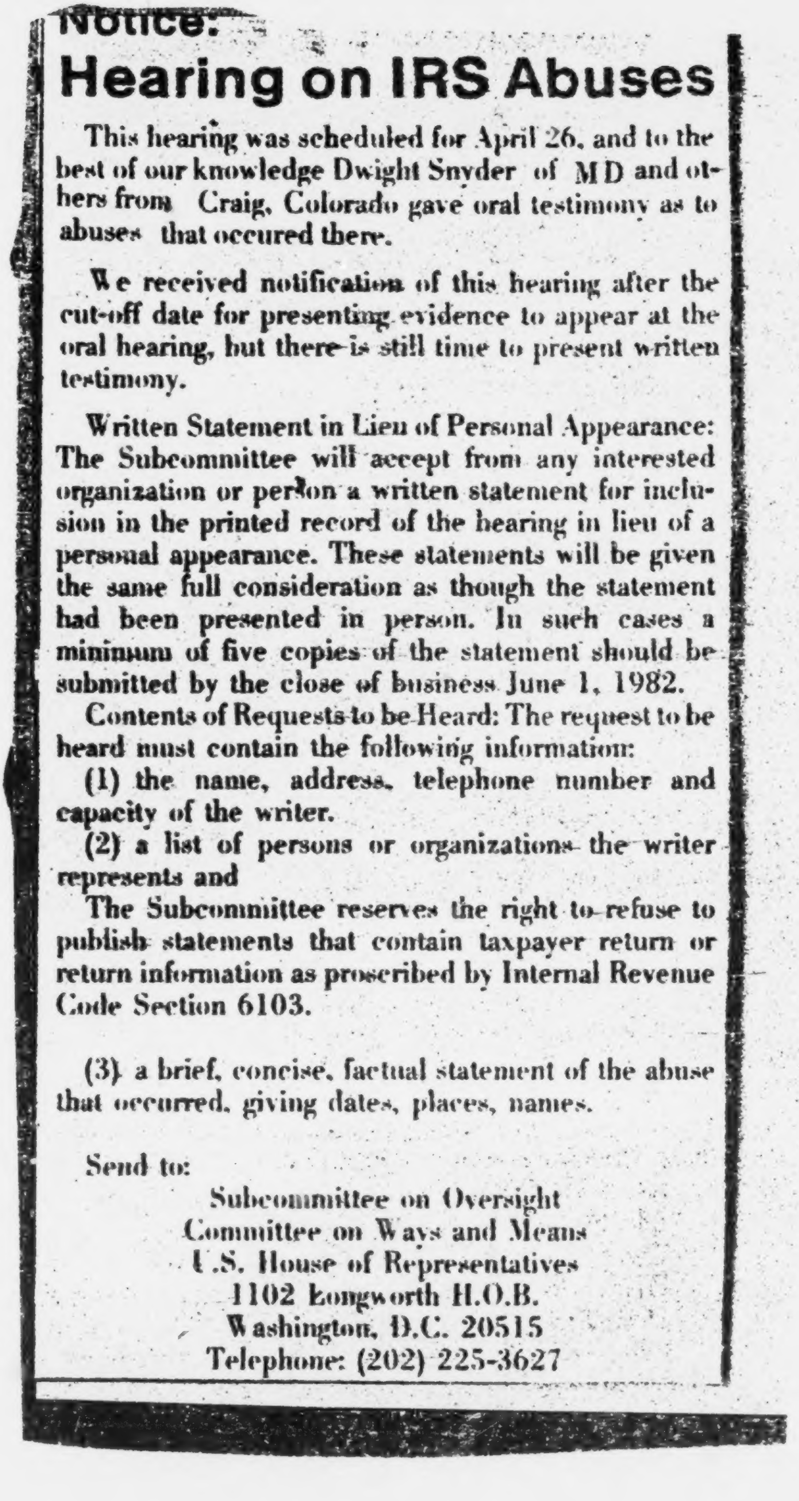
I would like to appear in person if there is time.

Respectfully,

Guy W Johnson

GUY W. JOHNSON

GWJ/mj



Notice:

Hearing on IRS Abuses

This hearing was scheduled for April 26, and to the best of our knowledge Dwight Snyder of MD and others from Craig, Colorado gave oral testimony as to abuses that occured there.

We received notification of this hearing after the cut-off date for presenting evidence to appear at the oral hearing, but there is still time to present written testimony.

Written Statement in Lieu of Personal Appearance: The Subcommittee will accept from any interested organization or person a written statement for inclusion in the printed record of the hearing in lieu of a personal appearance. These statements will be given the same full consideration as though the statement had been presented in person. In such cases a minimum of five copies of the statement should be submitted by the close of business June 1, 1982.

Contents of Requests to be Heard: The request to be heard must contain the following information:

(1) the name, address, telephone number and capacity of the writer.

(2) a list of persons or organizations the writer represents and

The Subcommittee reserves the right to refuse to publish statements that contain taxpayer return or return information as proscribed by Internal Revenue Code Section 6103.

(3) a brief, concise, factual statement of the abuse that occurred, giving dates, places, names.

Send to:

Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth H.O.B.
Washington, D.C. 20515
Telephone: (202) 225-3627

Thomas M. Kerr
P.O. Box 1786
Panama City, Florida 32401

(904) 785-4825

23 May 1982

Subcommittee on Oversight
Committee on Ways and Means
U.S. Hosue of Representatives
1102 Longworth H.O.B.
Washington, D.C. 20515

Gentlemen:

Five copies of the enclosed material has been submitted to the Subcommittee on Oversight. If there are any questions please do not hesitate to contact me.

Thank you.

Sincerely,

Thomas M. Kerr

Thomas M. Kerr

Enclosures:
1. "In the Spring of 1977"...ltr.
2. Chronological Series of Events
3. Comparison - Contrast
4. A. Davis's ltr 5 May 1978
5. Church activities
6. UDM Public Information Report

In the Spring of 1977 my wife and I organized and incorporated a non-denominational church. We had been doing church work prior to this time and we thought that through an organized non-profit church we could reach more people. We were totally ignorant of any tax protest movement or IRS harrassment of non-traditional churches at that time.

To be as legal and open as possible we naively applied for a tax-exempt determination letter via Form 1023. (*It was never granted. The Church withdrew her application because: (a) continued and excessive questioning by the IRS and (b) an IRS determination is not required for a church to be exempt in the first place.*)

While the determination letter was pending we decided we should be affiliated with a church that already had such a letter. William Drexler, Jr., claimed Life Science Church (LSC) was exempt and even "had it's number". Therefore in the Winter of 1977 I chartered with LSC and took a vow of poverty. Beginning in 1978 I submitted a W-4 "exempt" and have had no withholding taken from a paycheck since then. (*Since 1977 I have worked for the Bureau of Indian Affairs, Veterans Administration, and the United States Air Force -- all in the capacity of a professional Social Worker -- all Federal jobs.*).

In 1978 I filed a "vow of poverty" tax return to get back my 1977 withholding. I received about half of it back.

Actually, we now think audit initiated due to informant. ?

Due to this return IRS initiated an audit. It was never carried out since IRS did not wish to conduct it out of state where the individual to whom I had given power of attorney lived. That person was going to represent me at the audit. Also, documents from my FOIA file indicate an audit would have been conducted at the request of a special agent based on a newspaper article about my religious activities had not one been initated by a revenue agent.

Then in the Fall of 1979 IRS, in writing, said I was under criminal investigation and proceeded to summons bank records for my "tax liability for 1977 and 1978"..."dba Life Science Church". I intervened. In November, 1980, a summons enforcement hearing was held in the 9th District Court, Billings, Montana. The court has not made a ruling.*

Both churches are still operating and doing church work in the form of an institutional ministry. One of their activities is an active correspondence that has reached people in over fifty prisons throughout the Untied States.

* The 9th District Court, Billings, Montana, just recently ruled in favor of the IRS summons enforcement. Appeal in progress.

Enclosure 1.

United Disciples Ministry Church

Prior to 1977, Tom & Barbara doing church related activities.

Spr. 77, moved to Kent, Ohio. Personal joint account opened at City Bank.

24 May, 1977, Kerrs founded and incorporated United Disciples Ministry Church(UDMC).

May 1977, UDMC registered as a foreign non-profit religious corporation in Ohio.

Fall 77, UDMC moved to Poplar, Mt. Separate bank accounts opened...personal & church. (Traders State Bank). Later bank accounts opened in Wolf Point, Mt.

Fall 77, UDMC registered as a foreign non-profit religious corporation in Mt.

Dec. 77 Billings Gazette article seen by SA David Wanner. FOIA indicates Tom Kerr was selected to be audited by SA based on this article which related to Tom's religious activities. Tom was already selected to be audited based on informant.

FIOA material indicated informant involved. SA requests an investigation be initiated as well as an audit...selected prosecution begins. Tom Kerr is not aware of an investigation until much later when items are received from FOIA.

Life Science Church of Billings
Life Science Church International
Unity Church Monastery
Golden Dawn Church

Dec. 77, Kerrs advised by ex-agent Streb it was legal to have two churches.

Dec. 77 Chartered a church. Kerrs thought it more established than UDMC. Tom Kerr took the Vow of Poverty with The ORDER OF ALMIGHTY GOD. A bank accou was opened for the charter in Billings, Mt....The First Northwestern Bank. The Church is at that time called Life Scien Church of Billings.

Dec 77 All personal accounts were close All renumeration given to the church.

Jan. 78 Tom Kerr filed W-4E to stop withholding.

Jan. 78 Revenue Agent Oscar Dolan conta Tom for an audit. Tom advised by ex-agent Strebel she would go to the audit for him since she had church records. TR refused that the case be sent to Arizona but did not tell him Strebel had not signed form.

Enclosure 2.

Comparison - Contrast

United Disciples Ministry Church	Life Science Church of Billings Life Science Church International Unity Church Monastery Golden Dawn Church
Founded in May 1977	Chartered Dec 77
Incorporated	Non-incorporated
	Vow of Poverty
Submitted 1023 (denied)	Never had a 1023
Institutional Ministry	Institutional Ministry
	Owns property in Montana
	IRS summons for bank records re: "tax liability of Thomas M. Kerr dba Life Science Church of Billings."

Enclosure 3

CHRONOLOGICAL SERIES OF EVENTS (CON'T)

United Disciples Ministry Church

Dec. 77 UDMC submitted a 1023 application to IRS. Responses to many irrelevant questions were indirectly supplied by former IRS Agent Rocky Strebel. Rocky "walked" an exemption through the local IRS office in Phoenix, Arizona. UDMC operated at all times under good faith that she was organized legally and did church activities.

Dec. 79 Final adverse ruling on UDMC's 1023 application. (Church did not need the ruling in the first place since churches are automatically exempt under IRS Code 508).

Dec. 79 UDMC requests 1023 materials be returned. This was denied. Therefore, IRS has financial information about UDMC; Profit and Loss Statements and Balance Sheet for 1977 which were prepared by Rocky Strebel, an accountant and former IRS Agent.

Dec. 79 UDMC received notice from State of Montana that church no longer had tax exempt status. IRS had informed the State of the adverse ruling. Church did not appeal neither the State nor the IRS ruling due to IRS Code 508).

May 79 Moved to Trout Creek area, Montana.

Dec. 79 UDMC moved to Columbia, Missouri

Oct. 80 UDMC moved to Panama City, Florida

****

IRS either ignores or delays FOIA information requests for both Tom & Barbara. Items that are sent are greatly censored....Also at times items that are withheld have been appealed and obtained. It was shown in the Dec. 80 Summons Enforcement Hearing that a reason for one of the delay times was to wait for SA Beaman to choose the items!

****

Both churches operate at all times under good faith and do church activities.

Life Science Church of Billings
Life Science Church International
Unity Church Monastery
Golden Dawn Church

Jan. 78 Changed church's name to Life Science Church International.

Apr. 78 Tom Kerr filed 1040 Vow of Pc Return to get back 1977 withholding. (line that indicates liability wasn't filled in). Tom received (½) one-hal of the refund due. Return treated as he were single. R. Strebel stated IR "created" a liability for him even th Tom did not fill out any lines which would indicate such.

Sept. 79 SA Beaman's letter stated To was under criminal investigation and information he provided may be used against him. Tom wrote SA Beaman and requested certain questions be answere before going to meet with Beaman. The Special Agent chose to ignore letter.

Oct. 79 IRS Summons for bank records at City Bank, Kent, Ohio for the "tax liability of Thomas H. Kerr dba Life Science Church of Billings".
(Intervened)

May 79 Moved to Trout Creek area, Mont. Changed church name to Unity Church Monastery.

Dec. 79 Moved to Columbia, Missouri.

Oct. 80 Moved to Panama City, Florida. Changed church name to Golden Dawn Chu

Oct. 80 Order to Show Cause on Summons Enforcement for First Northwestern Bank in Billings, Montana.

Dec. 80 Summons Enforcement Hearing. Co ruled in favor of IRS...stay pending appeal in 9th District [illegible] unwilling to testify.

Jul. 81 Summons Enforcement ruling on City Bank, Kent, Ohio. [illegible] All personal accounts [illegible] when Tom took a Vow of Poverty with a recognized religious order...The ORDER OF ALMIGHTY GOD!

Tom's status as a Taxpayer changed
He became a member of [illegible]

Internal Revenue Service

Department of the Treasury

District
Director

230 N. First Ave., Phoenix, Ariz. 85025

Person to Contact: J. Gribbon

Telephone Number: 257-1233

Refer Reply to: AD:JG

Date: May 5, 1978

United Disciples Ministry
P.O. Box 501
Poplar, MT 59255

Attn: Rev. Thomas M. Kerr, DD

Dear Rev. Kerr:

As a church, the United Disciples Ministry Church and its integrated auxiliaries, such as schools and religious orders, are not required to file a Form 1023 for qualification of exempt status under Section 501(c)(3).

Charitable contributions made to your church would be deductible to the donor. However, to insure that no question should arise if any contributors should be audited, many churches choose to file the Form 1023.

Churches such as the United Disciples Ministry Church and their auxiliaries are not required to file a Form 990.

Sincerely,

A. Davis
Manager, Group 2
Taxpayer Service Division

Enclosure 4

UNITED DISCIPLES MINISTRY CHURCH

"I am That and That am I"

Headquarters:
P.O. Box 1786
Panama City, Florida 32401

UNITED DISCIPLES MINISTRY CHURCH (UDMC)*is a non-denominational, not for profit religious organization that strives to do Goodwill work and believes in the basic divinity and dignity of all mankind. She attempts to open and prepare the hearts and minds of men for the reappearance of the Christ. UDMC believes that man's spiritual awareness is an ongoing, evolving process where truth is gradually revealed in proportion to his ability to understand it and properly apply it in his everyday life.

While some of you may be aware of UDMC's philosophy she would like to share some of her experiences and activities with you who do not have personal contact with her due to geographical distances. Many of you have expressed interest in her projects. You may wish to participate in some way. The Church will also welcome suggestions from you on how she can be a better instrument of service to our fellowman.

The following are some of the activities that UDMC is involved with. If you would like to have more information about any of them, please contact us. The Church carries on the Work when she:

- Stresses the reappearance of the Christ and urges everyone to help prepare for this great event by sounding the Great Invocation each day at 12:00 noon and 5:00 p.m.
- Supports, promotes, and endorses the Help Feed a Child Project where hungry children can be fed with the help of your donation.
- Highly recommends a number of very good and reliable organizations that provide excellent resource material as well as Bible study and metaphysical correspondence courses.
- Makes New Age spiritual literature available to the public (including residents of nursing homes and prisons).
- Conducts regular weekly spiritual services, and upon request UDMC holds special spiritual services in one's home.
- Provides an atmosphere for people to conduct study groups and discussions on philosophy and religion.
- Corresponds with residents of many prisons throughout the United States and helps link up people on the outside with residents as pen-pals, as well as among residents themselves.
- UDMC Ministers are asked to write to members of the Armed Services who receive little or no mail by sending their letters to the Department of the Army, Public Affairs Office.
- Recycles books and clothing to needy individuals and families.
- Provides lectures and seminars on matters of a spiritual and metaphysical nature.

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* UDMC and Golden Dawn Church (GDC), as units of service, share in these activities.

Enclosure 5

- Has written copyrighted articles on various topics for distribution and submitted materials for bi-monthly publications.
- Provides care for small animals and financial help to humane organizations.
- Supports, promotes, and endorses such Goodwill projects as Compassion, the Cousteau Society, March of Dimes, Cerebral Palsy, National Humane Organization Society, Inc., Chaplain Ray's International Prison Ministry, etc.
- Visits residents in prison.
- Provides Bible study coursework as part of an Institutional Ministry.
- Performs clergy duties (e.g. baptisms, marriages, visits the sick, etc.)
- Cooperates with editors and has the Great Invocation published in magazines, newspapers, and newsletters, and makes this great prayer/mantram available to local radio stations.
- Stresses the use of meditation and conducts prayer services for those with special needs and for all men, women, and children of Goodwill.
- By resident request UDMC writes letters to Parole Boards in their behalf. Also by request UDMC writes to and when feasible will call on the family and friends of these residents.
- Maintains interchruch contact with an exchange of ideas and ideals.
- UDMC Ministers may join the International Clergy Association.
- Provides telephone prayer counseling.
- Participates in the International Campaign Fund for Animals, "Help Save the Seals".
- UDMC Ministers, as units of service, may submit a list of their activities to World Goodwill to be printed in their newsletter.
- Distributes Bibles and other spiritual literature to prisons, nursing homes, motels, hospitals, etc.

The Church is always looking for and open to new ideas on how to be of service..."service" being the keynote of the Aquarian Age. Regardless of the amount you donate, your contribution will be greatly appreciated and put to Goodwill work.

Name______________________________ Date____________

Address____

____

Enclosed is my $_____contribution to help further Goodwill work.

Please use the reverse side of this page for your comments and suggestions.

Let Light and Love and Power restore the Plan on Earth.

UNITED DISCIPLES MINISTRY (UDM) is a non-denominational church which believes in the basic dignity and divine heritage of every human being. We recognize all religions that seek truth, East and West, that strive to achieve humanitarian goals. There are many levels of consciousness upon which man in his striving toward humanitarian goals comes to understand his GREATOR, his FELLOWMAN, and his SELF. Man has the right to seek his own level as his soul dictates. We also believe that everyone can foster and nuture his own divinity through love-in-action for humanity....A visible act of UDM's love-in-action is to legally ordain individuals throughout the United States and the free world, charter churches and bestow honorary degrees. UDM ministers (provided they follow local laws) are authorized to perform the same services that a minister of any church performs. UDM believes any person ought to have this privilege to serve GOD in this manner if he feels in his heart he wants to do so. UDM desires to offer individuals this chance and legalize their right to minister without imposing any church dogma and rigid tenets upon their spirit. They are also informed of clergy discounts and the unique tax benefits of the office. UDM's intent is to increase man's capacity for freedom in order to function effectively. UDM recognizes that the spirit MUST be free...free to approach divinity and free to choose the WAY of approach. UDM does not discriminate in terms of race, color, or creed. No one need terminate their affiliation with any church or religious organization to participate with UDM... for in the final analysis we are all ONE WITH GOD.

Ordination is UDM's attempt to provide a service to the community in a very personal and meaningful way. In addition to ordaining ministers, UDM may conduct other church duties and related activities, one of which is the dissemination of spiritual literature. UDM acts as one of the many channels for the distribution of the GREAT INVOCATION, a powerful mantra. UDM invites all men and women of will-to-good everywhere in the world to recite this effective invocation. We do request our ministers to daily repeat this beautiful mantra which is now printed in over one hundred (100) languages. UDM's basic motive in promoting legal ordination is the expectation of good spiritual results by a two-fold approach; 1) from the daily recitation of the GREAT INVOCATION and 2), by UDM ministers in their desire to "live up" to the respect and dignity of the office of clergy. (A worldly incentive to obtain the title is information regarding clergy discounts and unique tax benefits.) Can one not envision the awesome impact--the spiritual energy manifest as a will-to-good to all men? No one uses this invocation without noticing a powerful change in his own attitude about himSELF and his FELLOWMAN. "AS A MAN THINKETH IN HIS HEART, SO IS HE".

A great effort toward spiritual awakening and unity is going on through individual prayer, meditation and invocation, which as it strengthens can serve all humanity. The reception of spiritual energy can be a UNITED reception to uplift the human consciousness into a greater light. Thus, the purpose of the

Enclosure6

CREATOR of all things will be fulfilled. UNITED DISCIPLES MINISTRY's affirmation is, "IN CHRIST, THEREFORE I AM". We serve as a love-in-action instrument to enlighten our fellowman to the New Age of HARMONY, PEACE, and UNITY. Love-in-action is brought about through right daily acts, thoughts, and speech: the right diet (food and thought) and the right use of human, material and dimensional resources; especially money and time. The right use of one's time such as during quiet moments of active meditation and prayer helps each of us to use GOD's precious gift of INNER daily guidance. UDM ministers and members are given the freedom to express their being in GOD according to that still small voice WITHIN rather than the crystallization of any church dogma. In so doing, the right use of money is impressed into the hearts and minds of those with "eyes to see and ears to hear". Money is energy. At present it is largely directed toward distorted values of purely personal desires and materialism. It's right use is the SPIRITUAL work of love-in-action for serving humanity. UDM dedicates it's service to help mankind actualize his GODLINESS through right daily acts, thoughts, and speech. One approach to the WAY is to recite the GREAT INVOCATION which is as follows:

THE GREAT INVOCATION*

From the point of Light within the Mind of God
Let light stream forth into the minds of men.
Let Light descend on Earth.

From the point of Love within the Heart of God
Let love stream forth into the hearts of men.
May Christ return to Earth.

From the centre where the Will of God is known
Let purpose guide the little wills of men --
The purpose which the Masters know and serve.

From the centre which we call the race of men
Let the Plan of Love and Light work out
And may it seal the door where evil dwells.

Let Light and Love and Power restore the Plan on Earth.

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UNITED DISCIPLES MINISTRY is a tax-exempt non-profit organization. All gifts are tax deductible under section (501) of the Federal Income Tax Code.

April 29, 1982

Honorable Charles B. Rangel
Chairman, Subcommittee on Oversight
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Rangel:

The following is a statement I have prepared for the Subcommittee on April 26, 1982:

Mr. Chairman, I am William P, Kirby, Member of the Committee for Constitutional Taxation in the Philadelphia area of Pennsylvania.

I am pleased to have the opportunity to submit my statement before the House Ways and Means Committee during the current round of discussions on the advisability of a tax reduction and the increasing dissatisfaction and resentment by the members of the Committee for Constitutional Taxation over the abuses of the United States Internal Revenue Service.

The sovereign citizens of this great country are having their Constitutional rights eroded by the Internal Revenue Service in their efforts to collect taxes.

The freedoms Americans should enjoy are specifically protected by laws contained in the Constitution of the United States.

The laws in the U.S. Constitution are binding upon all government officials and limit their influence over the lives and property of citizens and residents of the United States.

Much of the former body of law as passed by Congress and interpreted by the U.S. Supreme Court has been altered in recent years in the name of social progress.

The Constitutional mandate for a money system consisting of gold and silver coin has been abolished.

The fundamental right of citizens to own property has been violated by making depreciated paper bank notes a legal tender; by confiscation in the name of taxation; and by bureaucratic overregulation and control.

Government officials and Federal and State employees are generally unaware of the specific limitations imposed upon their authority by the U.S. Constitution.

Until changed by the amendment process the Constitution remains the supreme Law of the Land.

We, the People have consistently rejected political platforms that would bring us inflation, unemployment, support of communist aggression (such as supplying them with heavy equipment plants and computer technology), and give-aways such as the Panama Canal.

The protection that We, the People once enjoyed from participating in Trial by Jury has been destroyed by the Courts, forcing jurors to swear to uphold the law as the judge declares it.

The IRS and other agencies force citizens, through the use of fear and intimidation, to waive important rights to personal information by the filing of endless Forms; then the "voluntarily" supplied information is used as a weapon to intimidate the citizen with the threat of criminal prosecution.

The IRS is violating the "voluntary" system of self-assessment by intimidating employers into altering employees' properly-signed W-4 Forms: thus taking workers' wages without Due Process. (There is no appeal process for W-4 disallowals). This pre-judgment garnishment amounts to a de facto nationalization of personal property.

The Bureaucracy is now so large and powerful that our elected representatives have little control over the federal system.

The combination of Taxation, Regulation and Inflation has so stifled traditional American productivity that we are now suffering widespread unemployment and bankruptcy.

The financial health of the nation has been so damaged by irresponsible credit expansion through the Federal Reserve System that we are now faced with a critical shorage of investment capital, with failing pension funds, and with a breakdown of the Social Security and Welfare programs.

The American People have generously contributed unprecedented amounts of wealth for every demand of Congress; but in return Congress has piled up a tremendous national debt and the nation's problems have been worsened rather than solved by these expenditures.

Most of this debt does not represent Money loaned from people who had money -- but represents "credit" created from a promise to repay. If Congress has the power to issue "Bills of Credit" (Federal Reserve Notes) they could provide money without taxing citizens to pay the interest on the national debt. If they don't have the power to do so then they have unlawfully delegated power to the Federal Reserve System.

Crime has become commonplace among government personnel; the Constitution and Bill of Rights were ratified by We, the People to protect ourselves from again having to endure a criminal government which takes away the rights and the property of the people.

The great proliferation of laws in the last several decades has created a class of professionals whose first priority must be to protect the system (for their own security); We, the People no longer have access to unbiased professional help in opposing unconstitutional acts of Congress and illegal regulation by Federal and State Agencies.

Congress allows the Internal Revenue Service, for example, to use psychological warfare on citizens in the name of collecting a tax and to cause good citizens, concerned about violations of Constitutional Rights, to be convicted as felons and sent to prison; while at the same time carrying on diplomatic relations and commerce with totalitarian governments who are in complete violation of their own citizen's rights.

Activity aimed at the correction of abuse is neither criminal nor immoral; one cannot critize the actions of those who took part in the Boston Tea Party and the War for Independence to rid this nation of tyranny.

The first Amendment of the United States Constitution describes the right of the people among other things to peaceably to assemble, and to petition the Government for a redress of grievances.

Year after year, I have asked the District Director and the Director of the Service Center and Agents of the Internal Revenue Service to show me how to complete a U.S. Individual Income Tax Return Form 1040 or 1040A without waiving my Constitutional Rights or Privileges. Since 1976, the Internal Revenue has not answered my certified letters regarding this matter. I am still awaiting an answer.

The burden on the individual taxpayer must be reduced. Members of Congress must recognize that the only method to relieve taxpayers of IRS abuses is to reduce federal spending, taxes, and inflation.

Mr. Chairman, do not hesitate to act! Thanking you for your consideration, gentlemen of this subcommittee.

Respectfully submitted,

William P. Kirby

William P. Kirby
2458 Greenland Court
Bensalem, PA 19020
(215) 757-6874

CERTIFIED MAIL NO. P35 3640701

THE JUSTICE TIMES

Post Office Box 562 / Clinton, Arkansas 72031 / Telephone (501) 745-2200

Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth H.O.B.
Washington, D.C. 20515

April 28, 1982

RECEIVED
MAY 5 1982
Ways and Means
Subcommittee on Oversight

Written Statement to Committee on Oversight
concerning IRS abuse and taxpayer safeguards

I am Anita Lowery, Managing Editor of the leading newspaper of the second great American tax revolt, The Justice Times. The following is my written statement to be considered the same as if I were present to give oral testimony.

LET OUR PEOPLE GO!!!

Every one of our people in this freedom movement who has been incarcerated or who is facing trial for "failure to file" or for some such related charge has been abused in a most heinous way.

These good citizens have been treated as common criminals for challenging the unlawful rules made by power-mad, self-proclaimed, so-called "authorities" who are using usurped power to enforce those illegitimate rules.

The March 25 issue of the Detroit News states that the U. S. Senate passed a bill (S 1080) to force government agencies to make rulings in keeping with the laws that Congress passes. It's about time - though one would not think this would have to be necessary!

The patriots who are bringing these issues into our courts are denied their right to redress of grievances by judges who refuse to be bound by the Constitution and who arbitrairly usurp the power of the jurors by purposely misguiding them.

These good people have committed no crime! In order to commit a crime - one has to do something that is against the law! How can not doing something be a crime? Even if it were possible to commit a criminal act while not doing anything, such as not paying or filing the marxist personal graduated income tax on top of the indirect one as stipulated in the 16th Amendment, this great country which is supposed to be the land of the free, is not supposed to have a debtor's prison.

I demand that all who are in prison on income tax charges be immediately released and that all those cases currently so charged be dropped and that no further such criminal charges be brought against our good citizens.

Rather it would behoove all public servants to listen well to their arguments, for they have spent much time and research to gain the knowledge that has brought the truth concerning the law to their hearts and minds so strongly that they were compelled to uphold that law and to try in the only way left to compell their public servants to obey it also.

Subcommittee on Oversight
Committee On Ways and Means
U.S. House of Representatives
1102 Longworth H.O.B.
Washington, D.C. 20515

The people in this movement pay their rightful share of income tax in the way it was intended to be paid, through their purchases of goods and services.

If you are as knowledgeable as you should be - you know this is true.

If you are not, there are many in this freedom movement who are able and willing to teach you the law concerning the income tax issues.

Please feel free to call the telephone number above, and I will be glad to make arrangements.

Yours for Justice,

Anita Lowery

Anita Lowery, Mng Ed
The Justice Times

AL/bw

May 19, 1982

RECEIVED

MAY 24 1982

Ways and Means
Subcommittee on Oversight

Chairman Charles Rangel
Oversight Committee
House Ways & Means Committee
Washington, D. C. 20515

Dear Mr. Rangel:

This letter is to be made a part of the record of the Hearings on Taxpayer Abuse by the IRS held on April 26, 1982. In 1975 my husband and I did something different with our return for 1974. We questioned what the IRS was doing, we were not sure we owed a tax. We tried to get redress of grievance as guaranteed by our United States Constitution, but we feel like the IRS tried to make an example of us. They called us tax protestors. We never got any redress, just rules and regulations thrown at us with no explanation.

By October of 1977 they took the gloves off; they garnished my husband's wages. We were allowed $20 a week for my husband and son and I. The IRS also stole money from a trust fund for which my husband was a trustee. Judging from previous returns, and we're not sure we didn't overpay in previous years, there's no way the IRS could have assessed more than $500. Yet they emptied a bank account that did not even belong to us, stole $654.60; and they left us with $20 a week for a period of five months, October 28, 1977, to April 30, 1978. Not only was this a hardship, but the question in our minds is how could we owe it. There has never been an answer to that.

They pilfered some more in 1978 and 1979. The total swindled from my husband's wages without any justification in law was $7,534.92. The IRS called it a levy, but to levy is to seize property to fulfil a judgment. Who was the judge, what was the law?

We have questioned the wisdom of the IRS: "You have to pay it, and then you can sue for it back. Just before 1850, Frederic Bastiat wrote: When plunder becomes a way of life for a group of men living together in Society, they create for themselves in the course of time, a legal system that authorizes it and a moral code that glorifies it. "Surely the IRS has no right to do what they did, only the awesome power. The same power that silenced Senator Montoya, Senator Long, and tried to silence Congressman George Hanson. "For we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places." Ephesians 6:12.

I attended the hearings of your subcommittee on April 26th, and I believe in the Declaration of Independence and the Bill of Rights as guaranteed by the United States Constitution. We will have redress! I heard the questions asked like: Who is required? What is income? Chairman Rangel, you promised answers!

This letter is your authority to question the IRS about their abuse of us. The excuse we get from the IRS for their abuse is, "Tell Congress, they gave us this authority." Did you give authority for them to steal and destroy, to search and seize without a warrant? Are you willing partners to their oppression of us. "He has combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation..." If this sounds familiar, it happened before, in 1776.

In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the ever present teacher. It teaches the whole people by its example. Crime is contagious. When the Government becomes a law-breaker, it breeds contempt for the law.

"Indeed, it may not improperly be said that the Federal Constitution is the Government of the United States, though in common parlance we apply that term to administration. It was the Constitution that the convention formed, and the people ordained for their government. That Constitution provided for installing temporary administrations to administer, to execute the provisions of the Constitution, but it constituted NO BODY OF MEN AS THE GOVERNMENT. It provided for placing men temporarily in office to execute the powers specified in the Constitution, and nothing more.

"This Constitution, then, is in fact, the government created by our fathers, and when it dies, that government expires. And officers that carry on a government independent of a Constitution, constitute but a de facto government of assumed and unlimited powers." Thayer v. Hedges and Another, 22 Ind. 296, 1864.

The Bill of Rights guarantees that we shall have redress of grievances and where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. When the Bill of Rights is void because the case has to do with taxes, it's time to investigate this un-American activity. But when a long Train of Abuses...evinces a Design to reduce them under absolute Despotism, it is their Duty, to provide new Guards for their future Security. "But whoso looketh into the perfect law of liberty, and continueth therein, he being not a forgetful hearer, but a doer of the work, this man shall be blessed in his deed." James 1:25.

For evil to succeed all that is required is that good men do nothing. Please act now, enforce our Constitution.

Very truly yours,

Gloria Ludlum

Gloria Ludlum
310 Stanton Drive
Garland, Texas 75040

STATEMENT

For inclusion in the printed record of:
The Subcommittee on Oversight Hearing
TAXPAYER SAFEGUARDS
The Honorable Charles B. Rangle, Chairman

It is with great regard, that I write this statement, for the men and women who will conduct the Hearing; and will hear evidence on how the operation of the Internal Revenue Service affects the very lives of all American People.

I am sure that the evidence will be presented with candor, and that it will fairly determine what action is to be taken with regard to the current and future powers and authorities which the Internal Revenue Service has, or will have.

I am an American Taxpayer. I am also a beleiver in the most basic of reasons and the reasoning by which this Great Nation was instituted, and by which the world's greatest document was ordained and established; The Constitution of the United States.

I submit here today, that if an attention to the details attending to this form of Law and government restrictions, based on a contract, are not adhered to, we have lost the battle to determine the truth before we have begun.

Two-Hundred years ago, many people sailed from England to avoid the clutches of a monarch which demanded that the right to life itself, was in his hands, and his alone. They sailed because they could no longer tolerate the tyrannical rule of a man who would claim such a large stake in their own lives. They tasted true Freedom only in their dreams or in their solitude. Their land was not their own; their earnings were subject to immediate confiscation at any time; and they were essentially unprotected from such tyranny. Rebellion meant torture, prison, or death. Petition for redress of grievance was unheard of.

Refusal to endure another single day of such a government precipitated a migration of those who sought, and would eventially obtain the Freedoms they demanded. This was not to come about without the Revolutionary War.

One of the primary, and most publicized areas of conflict for the new Colonists was taxation. The collection of one's earnings in support of. . . .? The collection of one's property for . . . .?

The collections were stopped; a government began; and now certain guidelines were to be observed by the government. Guidelines which were strict; not on the taxpayer, but on the government. Rights were to be observed and protected in the processes of conducting government business and taxation. It was the business of the government to protect these Rights. The signers of the Constitution were of one mind in deciding that governments should be bound by Law in all matters of consequence to the American People.

Gradually the Rights of the individual have been preempted for the "more important causes promulgated by government". The needs of the country have become more important than the needs of the Citizens: the need for protection from unnecessary government intervention in their private lives. The systems of bureaucratic rules and regulations have pervaded the most minute functions of everyday life, in every person's in the United States. Based on the theory that "such a large society, must have so many rules.", the ball has not stopped rolling. The Freedoms of the American People have been diluted by administrative rulings that are fully beyond the scope of prudent government.

So are the rulings, and administrative edicts of the Internal Revenue Service. Too detached from the overseeing body, and more powerfully overwhelming than any other department of government, the IRS continues to grow in it's own right,beyond the proportions ever dreamed of by the Founders of this Nation.

The powers and authorities granted to this body have increased to a point of retaining powers granted to the three divisions of government; Executive, Legislative and Judicial. A situation very specifically avoided by the Founders in order to maintain a healthy climate of protection for the Citizens, by pitting one branch of the government against the other in matters dealing with Freedoms. The Doctrine of Separation of Powers was a primary guiding factor in the writing of and agreement to sign the Constitution. The separation was seen as necessary for historically obvious reasons.

The IRS now has the power to pass "laws", summon one to judgement, judge the accused, and upon conviction, sentence the accused as provided by IRS "law".

Congress has been apprised of several specific situations whereby the IRS has taken these actions against Citizens; and has done absolutely nothing to bring the IRS to account for such an action, under supposed "law". This, I should add, is with only a few exceptions of a handful of more watchful Representatives.

I submit that the function of Congress is to assess and collect any tax. It is their prerogitive to appoint or assign a body the responsibility of this action: . . . But, at no point in history, or in Law does this allow for a flagrant breach of the Rights of Citizen to privacy, non-interference, or the Right to have an understanding of the "laws" which govern their support of the government.

Citizens every year place themselves in jeopardy of Criminal prosecution under Civil statutes, as "decoded" by a Civil department of government. They find themselves placing their trust in a body which may answer their questions erroneously and accept no responsibility for it's actions. And the taxpayer is penalized for being malinformed.

The tax laws are written in such a manner that it is impossible in some cases to apply the law equally to all, or equitably to any. The IRS uses, as has been amply demonstrated in previous hearings by other organizations, the vague and ambiguous text of the Internal Revenue Code to it's own advantages. The IRS interpretations of the statutes governing the collection of taxes, in too many cases, would be considered violations of the Rights enumerated in the Bill of Rights; so the IRS claims the Code to be Civil Law, under which Citizens are afforded no protection listed in those Rights. This is criminal.

Now, while a body is convened to decide what action may, or must be taken in order to safeguard, protect and return the Rights of Citizens to equal and equitable taxation; without the intrusive administrative regulations and unlawful jurisdiction of the Internal Revenue Service over the Citizens.

It is the Constitutional demand that the Rights of Citizens be served in any action which is to take place. Do not be deterred by fear of a collapsing economy: an economy built by Citizens of America will survive any major changes. Do not ponder on thoughts of "The Good of the Whole.": the good of the whole is served by the return to a reasonable method, without the built-in violations of Rights. Do not be persuaded to contribute to IRS action by doing nothing to stop the wholesale violations by the IRS against the People in not curtailing the powers they now hold, in contradiction to every prudent principle of Constitutional Government.

You must bring the IRS under control. You must force them to observe the ideals of Liberty, and Justice for All. You must recommend legislation which returns us to a Constitutional Republican form of government that demands that any organization such as the IRS be under strict control. Strict control that is not now evident.

"Because it's too hard to change..." or "Because it's always been done this way..." will not long be accepted as reasons not to change this present system of overburdenous taxation, administered by overzealous agents, officers and members. Starting suggestions would be:

1. Administer an Oath to all employees of the IRS, to uphold, protect and and defend the Rights of Citizens under the Supreme Law of the Land. Thereby making it a Criminal offense to violate those Rights.

2. Return the IRS to the status of a collection agency, as opposed to the bureaucratic constabulary of the tax system.

3. Decide whether the IRS shall function under Criminal Law or Civil Law and prevent them from using both against the Citizen in our Courts.

4. Establish a fixed budget for the IRS based on the need to carry out the

duties of their office with a minimum of harrassment to the Citizens. It is an established fact that the IRS has used it's power to investigate for the express purpose of harrassment, character assasination, and other ill-gotten gains.

5. Appoint a Citizens' body of "watchdogs" to investigate and report on situations involving persecution of Citizen through the use of statutes that have no other purpose but to subject them to extraordinary scrutiny without reason or prudent respect of another's Rights.

6. Return jurisdiction of controversies involving taxation to the Courts of competent jurisdiction and abolish the Tax Courts; where a Citizen cannot invoke the Right of Jury Trial; where a Citizen cannot be heard by a impartial magistrate, (Judges are hand picked by the Commissioner in closed door sessions); where a Citizen is denied access to the Grand Jury to testify in his or her own behalf. The Jury Trial must be preserved.

The time is finally at hand to put an end to the violations and abrogations of Rights. I pray that you, who represent so many thousands of people, will make your recommendations based on your moral and legal responsibility to protect the Rights so long ago fought for, and so easily lost if not treasured and preserved. I pray that you will see the violations for what they are, and not just as one of those ugly necessities; for they are not necessary at all.

I can speak for no others. I can, however, see how the American Public at Large feels about the IRS. It is in their remarks. On television and radio. And of late, countless article have appeared in newspapers around the country concerning abuses and atrocities committed by the IRS against individuals. The evidence is there to be had.

I ask the Subcommittee to bring in a recommendation of strict curtailment of the actions of the Internal Revenue Service, strict overview of their actions, and major changes in the tax code as it pertains to the Citizens of this country.

With great reverence for Liberty and Justice, and the greatest respect for the Subcommittee members themselves; I submit this statement as an act of Faith in the Government of the United States of America and the several States.

Jack L. Marshfield
Route 7, Box #93
Stafford, Virginia

Copy to:
File

[NOTE TO READER: Additional materials retained in subcommittee files.]

Citizens Alliance Association

An Association for the Preservation of Human Rights
P. O. Box 19078
CHICAGO, ILLINOIS 60619
(312) 224-8500

May 29, 1982

TO: HONORABLE DAN ROSTENKOWSKI, IL
HONORABLE CHARLES B. RANGEL, N.Y.
HONORABLE HAROLD E. FORD, TENN.

DEAR CONGRESSMAN RANGEL:

We sincerely thank you for the information forward to our office on May 24, 1982. We noted with great interest the general theme of the Hearing conducted on Monday, April 26, 1982.

On Your subject of "Taxpayer Safeguards", of course we are not in a position to cover the Code at this time; but in summary, the Code and all the general guidelines and procedures utilized by the Service must fit within the frame work of the United States Constitution.

Citizens Alliance Association assist numerous taxpayers from various areas of United States, the enclosed information relates to Director Donald Berghirm of the Chicago Area, and his Chief, Technical and Office Compliance Branch, Mr. Selo Kluger. Please note as you view page 11, of the enclosed material, that the Notice of Federal Tax Lien does not carry the name of the Revenue Officer issuing same. IT SHOULD BE A STANDARD PROCEDURE OF THE INTERNAL REVENUE SERVICE THAT ANY DOCUMENT ISSUED BY THE SERVICE CARRIED THE TYPEWRITTEN NAME OF THE INDIVIDUAL ISSUING THAT DOCUMENT.

With the taxpayer's permission we have not deleted the social security numbers, thus making it possible, if you should elect to secure the Internal Revenue Service's response.

Respectfully yours,

A. S. Miller

A. S. Miller, Jr., Director

AM/dc

CONGRESSMAN,

Founded 1964, by: ADAM CLAYTON POWELL & ANDREW S. MILLER, JR.

files.]

4402 S.W. 24th Avenue
Fort Lauderdale, Florida 33312
May 10, 1982

MAY 20 1982

Honorable Charles B. Rangel
Subcommittee Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

RECEIVED
MAY 24 1982
Ways and Means
Subcommittee on Oversight

Ref: Hearing, Monday, April 26, 1982 - re IRS Administrative policies and procedures consistent with laws and procedural rights of taxpayers

Dear Chairman Rangel:

Please include this letter in the printed record of the above-referenced hearing in lieu of my personal appearance, which letter is to be submitted by close of business June 1, 1982, in five copies.

The whole Internal Revenue Service system is rotten. Presidents Reagan and Carter voiced the inequities, etc., of the IRS, but did nothing about it. There is NO equity whatsoever in the present system.

Certain people, falling into specific categories, are given privileges. Others are given other privileges, exemptions, exclusions, etc. Why continue with a system so full of loop-holes that specific persons, groups, etc., pay little, if any, taxes?

The present unequal system is making honest people who stand up for their moral convictions into criminals. The system is wrong; and many who occupy high-paying jobs and posts of leadership know the system is wrong but do nothing because of selfish interests.

The only fair solution is to scrap the present IRS system and put in its place a straight across-the-board percentage (2, 5, 10, or whatever percentage) for everything on the W-2 form above a specified figure, say 10,000.00. And let the IRS collect W-2 forms as they have been AND send out a bill for the tax. In that system, a great percentage of the IRS employees could still work for IRS and the others could do what air controller and Braniff ex-employees are doing. To say that all government employees should be able to hold their jobs is also unfair. Whan a private company goes out of business for whatever reason, their employees have no guarantees.

Again, I say scrap the present IRS system. Put in its place a simple, equitable, reasonable tax.

Thank you.

Sincerely,

Mrs. Georgia G. O'Donnell

Mrs. Georgia G. O'Donnell

cc: President Reagan, Vice-President George Bush, Senators & Reps.
Enclosure: Original & 4 copies this letter
GGO:gm

DOC #

REC #

MAY 20 1982

ARA:

OMMENTS:

4402 S.W. 24th Avenue
Fort Lauderdale, Florida 33312
May 11, 1982

RECEIVED
MAY 24 1982
Ways and Means
Subcommittee on Oversight

Honorable Charles B. Rangel
Subcommittee Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Ref: Hearing, Monday, 4/26/82 - re IRS administrative policies and procedures consistent with laws and procedural rights of taxpayers

Dear Chairman Rangel:

Please include this letter in the printed record of the above-referenced hearing in lieu of my personal appearance, which letter is submitted by close of business June 1, 1982, in five copies.

For 22 years I was employed in a clerical capacity. The past six years I have not worked in the public sector. I have stayed at home and kept books for the Internal Revenue Service for nothing! This is a complete waste of my time and talent. I am not an isolated case -- this is repeated over and over in our great Country thousands and thousands of times. What a waste!

To point out a couple items (and there are, no doubt, others):

Amendment VIII of the United States Constitution states:

> ". . . nor cruel and unusual punishments inflicted."

Amendment XIII, Section 1, states:

> "Neither slavery nor involuntary servitude, ... shall exist within the United States, ..."

I strongly feel a personal violation on both Amendments above. It is cruel and unusual punishment to have to sit day after day writing letters, keeping books, filing papers, filing receipts, reading stacks of mail, typing -- actually running a complete office FOR NO PAY but yet it has to be done to satisfy a host of IRS employees who are trying to fulfill an impossible inequitable task.

I could be using my time on a paid job. I could be working many hours, donating my time to a hospital, making life worthwhile to the sick, the elderly, shut-ins, etc. There are numerous things I could be doing with my time that would make more sense than keeping books for an agency that should be done away with. There has to be a better way to collect a tax, if actually that is the purpose of the agency, which I doubt.

Here's hoping your Subcommittee on Oversight sees fit to recommend scrapping the IRS as it now operates and further recommends instituting a simple across-the-board equitable tax for one and all persons.

Thank you.

Sincerely,
Georgia G. O'Donnell
Mrs. Georgia G. O'Donnell

cc: President Reagan, V-P George Bush, Senators & Reps., others
Enclosure: Original & 4 copies this ltr.
GGO:gm

[NOTE TO READER: Additional materials retained in subcommittee files.]

4402 S.W. 24th Avenue
Fort Lauderdale, Florida 33312
May 12, 1982

Honorable Charles B. Rangel
Subcommittee Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

RECEIVED
MAY 25 1982
Ways and Means
Subcommittee on Oversight

Ref: Hearing, Monday, 4/26/82 - re IRS administrative policies and procedures consistent with laws and procedural rights of taxpayers.

Dear Chairman Rangel:

Please include this letter in the printed record of the above-referenced hearing in lieu of my personal appearance, which letter is submitted by close of business June 1, 1982, in five copies.

Originally the intent of Congress (see Congressional Record-Senate, August 28, 1913, page 3827 and which runs for about 30 pages) was to tax the income of corporations. The word "income" (see page 3845 attached) as given in a standard dictionary means "gains and profits."

The Internal Revenue Service has twisted the original intent of Congress to include "income derived from salaries and wages" of an individual WHICH IS WRONG. Salaries and wages are not "gains and profits." The Congressional Record further states: "It has to be income before it can be taxed, no matter how it is derived."

Please verify the original intent of Congress and take steps to put the IRS back on track --- to collecting PROPER, equitable, and reasonable, taxes, and nothing else.

Thank you.

Sincerely,

Mrs. Georgia G. O'Donnell

cc: President Reagan
Vice-President George Bush
Various Senators
Various Representatives
Other interested parties

Enclosures: Original & 4 copies this letter
Congressional Record, page 3845

GGO:gm

4402 S.W. 24th Avenue
Fort Lauderdale, Florida 33312
May 19, 1982

RECEIVED
MAY 25 1982
Ways and Means
Subcommittee on Oversight

MAY 24 1982

Honorable Charles B. Rangel
Subcommittee Chairman
Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Ref: Hearing, Monday, 4/26/82 - re IRS administrative policies and procedures consistent with laws and procedural rights of taxpayers

Dear Chairman Rangel:

Please include this letter and attachments in the printed record of the above-referenced hearing in lieu of my personal appearance, which letter is to be submitted by close of business June , 1982, in five copies.

Enclosed are a few newspaper articles showing the inequities of the income tax:

1. The first example is no tax for a large corporation -- by using a scheme voted by Congress of buying up tax credits and using depreciation write-offs. There are literally thousands of others doing the same thing.
2. The second example shows more stupidity than anything else and it has been repeated many times. Why would any agency spend many times over 18¢ to collect 18¢?? Where is their common sense? All these government employees (servants of the people) using such judgment should be fired!
3. The third example mentions "tax shelters." This is another Ponzi scheme giving a "privilege" to a few, and should not and cannot be tolerated. It is also in direct violation of our Republican form of government, and our Constitution.

The immoral, illegal IRS system must be scrapped completely; or another simple solution might be to pass THE LIBERTY AMENDMENT! Haven't the people been swindled long enough?

The above are only a few examples. The news media are full of tax inequities daily and no doubt many more unpublished.

We demand that you uphold your oath of office so our government servants/will once again be representative of the will of the citizens.

Thank you.

Sincerely,

Mr. and Mrs. C. H. O'Donnell

Mr. and Mrs. C. H. O'Donnell

cc: President Reagan
Vice-President George Bush
Senators & Representatives
Other interested parties

CHO:ggm
Enclosures (3)

PEGGY POOR
700 SOUTHWEST 4 PL
FT LAUDERDALE FL 33312

western union Mailgram

4-0186808147 05/27/82 ICS IPMMTZZ CSP WSHB
3054628041 MGM TDMT FT LAUDERDALE FL 85 05-27 1126A EST

DOC #
REC #
AIDE:
MAY 28 1982
CATS
PARA
COMMENTS:

CHAIRMAN CHARLES B RANGEL
SUBCOMMITTEE ON OVERSIGHT
HOUSE COMMITTEE ON WAYS AND MEANS
1102 LONGWORTH HOUSE OFFICE BLDG
WASHINGTON DC 20515

RECEIVED
JUN 1 1982
Ways and Means
Subcommittee on Oversight

PLEASE INCLUDE FOLLOWING IN PRINTED RECORD OF HEARING MONDAY, APRIL 26, 1982 RE IRS CONSISTENCY WITH LAW: "IRS DOCUMENTS OBTAINED THROUGH FOIA DISCLOSED CONTINUED BLACK LISTING OF SELECTED TARGETS AS REPEATEDLY EXPOSED AND DENOUNCED BY CONGRESSIONAL INVESTIGATIONS OVER SEVERAL DECADES, MASSIVE IRS COVER-UP, MAINTAINED BY LIES, LIBEL, EVASION ALSO DOCUMENTABLE, URGE COMMITTEE PROBE IRS INTIMIDATION OF OFFICIALS AND CONGRESSMEN TO THWART INDEPENDENT INVESTIGATION."

PEGGY POOR

11:29 EST

MGMCOMP

TO REPLY BY MAILGRAM, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA, 22645

western union Mailgram

4-0186805147002 05/27/82 ICS IPMMTZZ CSP MIAB
1 3054628041 MGM TDMT FT LAUDERDALE FL 05-27 1128A EST

PEGGY POOR
700 SOUTHWEST 4 PL
FT LAUDERDALE FL 33312

RECEIVED
JUN 2 1982
Ways and Means
Subcommittee on Oversight

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628041 MGM TDMT FT LAUDERDALE FL 85 05-27 1128A EST
ZIP
CHAIRMAN CHARLES B RANGEL
SUBCOMMITTEE ON OVERSIGHT
HOUSE COMMITTEE ON WAYS AND MEANS
1102 LONGWORTH HOUSE OFFICE BLDG
WASHINGTON DC 20515

PLEASE INCLUDE FOLLOWING IN PRINTED RECORD OF HEARING MONDAY, APRIL 26, 1982 RE IRS CONSISTENCY WITH LAW: "IRS DOCUMENTS OBTAINED THROUGH FOIA DISCLOSED CONTINUED BLACK LISTING OF SELECTED TARGETS AS REPEATEDLY EXPOSED AND DENOUNCED BY CONGRESSIONAL INVESTIGATIONS OVER SEVERAL DECADES. MASSIVE IRS COVER-UP, MAINTAINED BY LIES, LIBEL, EVASION ALSO DOCUMENTABLE. URGE COMMITTEE PROBE IRS INTIMIDATION OF OFFICIALS AND CONGRESSMEN TO THWART INDEPENDENT INVESTIGATION."

PEGGY POOR

11:28 EST

MGMCOMP MGM

700 SW Fourth Place
Fort Lauderdale FL 33312
24 May 1982

Jeffrey Kay
U.S. Attorney,
299 E. Broward
Fort Lauderdale, FL 33301

Dear Mr. Kay.

This is formally to request that you file criminal charges on our behalf against KAYE B. MORRIS, of IRS, Room 105B, 299 E. Broward, Ft. Lauderdale. and BARNETT BANK OF BROWARD COUNTY. Subject MORRIS, under color of law, has stolen one hundred twenty-one dollars and ninety-three cents ($121.93) from our checking account in the Subject BARNETT BANK which acquiesced. Subject MORRIS acted in demonstrably willful bad faith and malice and with full knowlege provided by voluminous documentary evidence that the amount stolen had already been paid.

Subject MORRIS should be charged under at least the following provisions of Title 18, and quite possibly others:1001, 872,875,876, 241, 1341,2073,2071, 1503, 201 ,1951,2071, 2073, as well as 26 USC 7214, 15 USCA 1692c et seq., She should be charged for harassment under the Model Penal Code #250.4. IRMA H. CARR of the Jacksonville IRS

F. Sue Samples and Daisy Cook of the IRS office in Atlanta Georgia, may be chargeable as co-conspirators, as well as unknown others.

Your attention is called to the fact that Subject MORRIS is in the same office as alleged embezzler Rodriguez. Your attention is further called to the fact records of this office were so jumbled and contradictory that a jury in the Rodriguez trial was too confused to render a verdict and mistrial had to be declared.

Additionally, your attention is called to the fact that there are affidavits,testimony, exhibits, and other evidence on file in the U.S. District Office at Jacksonville showing that such harrassment and persecuti as we have been subjected to is common practice and even official policy of IRS in this state, and that there is a " quota system" or similar inducements to which the motive of Subject MORRIS might be attributed.

The facts, all substantiated by the attached documents, are as follows:

1. In April, 1980, we timely filed and paid income tax for 1979.

2. In November, 1980, a notice from IRS claimed an additional $32.31 (thirty-two dollars and thirty-one cents). Already overwhelmed and caused great mental anguish, loss of income, and other excessive damages by 18 months of IRS impermissible selective prosecution, persecution, and harassment BECAUSE WE HAD BEEN "HIT-LISTED," regarding willfully FABRICATED"deficiencies" for other years, we paid the $32.31 claim without checking to see if it was valid, merely to avoid additional persecution. Xerox of both sides of the check, dated November 18, 1980, AND CANCELLED, is attached as an exhibit. Through FOIA we have DOCUMENTARY EVIDENCE of the HIT-LISTING, of the FABRICATION, and of the wilfull bad faith SELECTIVE persecution.

3. Despite the fact that the alleged claim WAS PAID, as shown by the cancelled check, the IRS conspirators in willful bad faith and malice continued repeatedly to attempt to collect the claim again in amounts escalating by some devious formula. These extortion threats were made through the U.S. Mails and each one was answered by certified return receipt stating that the amount had ALREADY BEEN PAID November 18, 1980. Xerox of the file of extortion threats and postal receipts of our response are attached.

4. In a communication internally dated May 11, 1981, the IRS conspirators finally admitted that the amount they were attempting to extort HAD ALREADY BEEN PAID. This communication bore the notation "NONE" beside the notation " balance due." Xerox is attached.

5. Nevertheless, in spite of having cashed our check, in spite of the WRITTEN admission that " balance due" was "NONE.", the IRS conspirators to harass and persecute us with repeated extortionary threats through the U.S. Mail, demanding ever escalating amounts. Xerox attached.

6. July 29, 1981, we received another extortionary threat internally

dated July 24, 1981. With bald-faced LIEING in direct contradition to the documentary evidence of the cancelled check, postal green cards, and their own written admission that " balance due" was "NONE", the IRS conspirators falsely alleged not to have received payment or acknowlegement and threatened seizure unconstitutionally and illegally of all our property, income, and even wages if the FRAUDULENT EXTORTIONARY demand was not met within ten days. Again we responded by certified mail, proving the claim had been paid November 18, 1980.

7. During this period of persecution we several times contacted congressmen to call attention to these illegal outrages. We were assured during the summer of 1981 by Mike McNamara of Sen. Paula Hawkins'office in Winter Park that there had been computer difficulty, that it had been corrected, and that these extortionary threats would cease.

8. In a communication internally dated December 31, 1981, and signed F. SUE SAMPLES, we received an apology and an itemized "Record of Accounts" AGAIN, FOR A SECOND TIME IN WRITING, SHOWING THAT WE OWED NOTHING--- "00." Xerox attached.

9. Nevertheless, persecution did not cease. An unsigned extortionary communication dated February 19, 1982, again threatened blackmail over the same claim. We again responded by certified return receipt and also sent a mailgram to Associate Attorney General Rudolph Giuliani, head of the Criminal Division, stating readiness to sign a criminal complaint against the IRS persecutors. A copy of this mailgram was also sent to U.S. District Judge Norman Roettger before whom we have cases pending which attempt to determine WHO HIT-LISTED us and WHY, as well as other matters. Xerox attached.

10. A few days later again through the U.S. Mails we received yet another extortion threat over the same ALREADY PAID claim. This was signed by Subject MORRIS. We again sent a mailgram to Mr. Giuliani with copy to Judge Roettger stating readiness to sign a criminal complaint in which we could now name Subject MORRIS. Xerox inclosed.

11. On March 22, 1982, we received yet another extortion threat through the U.S. Mails regarding the same claim WHICH WE HAD PAID November 18, 1980. This extortionary threat was signed IRMA H. CARR of the Jacksonville office. Again we wired Mr. Giuliani with copy to Judge Roettger, and another copy to the U.S. Attorney at Jacksonville.

12. Because of the overwhelming documentary evidence we had repeatedly supplied---xerox of the cancelled check, the postal green cards, the two statements from IRS admitting that our"balance due" was "NONE" and "000, plus the explanation from Sen. Hawkins' office of computer failure, plus the obvious confusion in the office as attested by the Rodriguez trial, that the matter may at last have been corrected and that the persecution would be halted.

13. But WITHOUT ANY PRIOR WARNING WHATSOEVER, Saturday May 22, 1982, we received notice by U.S. Mail from BARNETT bank that $121.93 had been withdrawn from our account by order of and sent to Subject MORRIS. Xerox inclosed.

This case provides another shocking example of the alien and unamerican concept increasingly pervading the federal bureaucracy that mere association with government grants a license to violate the law. Taxpaid public SERVANTS ARE NOT ABOVE THE LAW. This is not only totally contrary to our Constitution, Statutes, and Common Law, but to centuries old fundamental principles of our justice system. In these United States, the purpose of the Judiciary and of law enforcement is TO PROSPER JUSTICE. IT IS NOT TO PERSECUTE FOR DISSENT, or, in Judge Bryant's recent warning, "prosecution for prosecution's sake." Such an arrogant lawlessness on the part of taxpaid public servant is different ONLY IN DEGREE from oppressive practices of totalitarian tyrannies behind the Iron Curtain, in Hitler's Germany, or in Latin dictatorships---oppressive practices which it is the OFFICIAL policy of the United States to denounce.

Donald H. Allen
Donald H. Allen

Peggy P. Allen
Peggy P. Allen

cc: Chairman and members US House Oversight Subcommittee investigating IRS criminality, Sen. Hawkins, Sen. Helms, Rep. Hansen, other elected and appointed officials, private individuals and groups, particularly those concerned with Restoration of our Constitution, the SUPREME LAW OF THIS NATION, which ALL PUBLIC SERVANTS SWEAR TO UPHOLD.

exhibits and affidavits attached. Cert. No. P35 5311320

AFFIDAVIT

Now comes DONALD H. ALLEN and under oath swears that to his best knowlege and belief all statements contained in the letter and exhibits attached and addressed to Jeffrey Kay, U.S. Attorney, 299 E. Broward, Fort Lauderdale, are true and correct.

Sworn to and signed before me this 25th day of May 1982.

Donald H. Allen

Donald H. Allen

NOTARY: Thelma A. Estes

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES JULY 11, 1983
Bonded thru Central Ins. Underwriters

AFFIDAVIT

Now comes PEGGY P. ALLEN and under oath swears that all statements contained in the letter and exhibits attached and addressed to Jeffrey Kay, U.S. Attorney, 299 E. Broward, Fort Lauderdale, are true and correct to her best knowlege and belief.

Sworn to and sign before me this 25 day of May 1982.

Peggy P Allen
Peggy P. Allen

NOTARY: Jean Spick

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMM [illegible]
BONDED THRU GENERAL INS. [illegible]

P35 5311320

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL
(See Reverse)

SENT TO Jeffrey Kay	
STREET AND NO. US Attorney, 299 E	
P.O., STATE AND ZIP CODE Broward, Ft. Lauderdal Fl 33301	
POSTAGE	$ 88
CERTIFIED FEE	75 ¢
CONSULT POSTMASTER FOR FEES — OPTIONAL SERVICES — SPECIAL DELIVERY	¢
RESTRICTED DELIVERY	¢
RETURN RECEIPT SERVICE — SHOW TO WHOM AND DATE DELIVERED	60 ¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY	¢
SHOW TO WHOM AND DATE DELIVERED WITH RESTRICTED DELIVERY	¢
SHOW TO WHOM, DATE AND ADDRESS OF DELIVERY WITH RESTRICTED DELIVERY	¢
TOTAL POSTAGE AND FEES	$
POSTMARK OR DATE FT LAUDERDALE FL SOUTH SIDE STA MAY 25 1982 USPS	

PS Form 3800, Apr. 1976

0-0197185081002 03/22/82 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT FT LAUDERDALE FL 03-22 1223P EST

PEGGY POOR
700 SOUTHWEST 4 PL
FT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FT LAUDERDALE FL 44 03-22 1223P EST
ZIP
RUDOLPH GIULIANI, ASSOCIATE ATTORNEY GENERAL
US DEPT OF JUSTICE
WASHINGTON DC 20530

PREPARED TO SIGNED CRIMINAL COMPLAINT AGAINST IRMA H. CARR OF JACKSONVILLE FLORIDA IRS UNDER 18USC 241, 872, 875, 876, 1001 AND 26USC 7214. PLEASE CONFIRM THIS MESSAGE AND EARLIER ONES

PEGGY POOR

12:25 EST

MGMCOMP MGM

TO REPLY BY MAILGRAM, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

MIDDLETOWN, VA. 22645

western union Mailgram

4-0132258081-006 03/22/82 ICS SOTSCTC MLTN MIAB
SUSPECTED DUPLICATE: 4-020101S081002 ICS IPMMTZZ CSP
1 3054628047 MGM TDMT FT LAUDERDALE FL 03-22 1227P EST

P POOR
700 SOUTHWEST 4 PL
FT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FT LAUDERDALE FL 75 03-22 1227P EST
ZIP
JUDGE NORMAN C ROETTGER
US DISTRICT COURT
299 EAST BROWARD BLVD
FT LAUDERDALE FL 33301
SENDING FOLLOWING MAILGRAM TO ASSOCIATE ATTORNEY GENERAL RUDOLPH GIULIANI WHICH SHOULD BE INCLUDED IN 81-6358 AND ALSO JUDGE HASTINGS CASES JUST ASSIGNED TO YOU 80-6-75 AND 6161:

PREPARED TO SIGNED CRIMINAL COMPLAINT AGAINST IRMA H. CARR OF JACKSONVILLE FLORIDA IRS UNDER 18USC 241, 872, 875, 876, 1001 AND 26USC 7214. PLEASE CONFIRM THIS MESSAGE AND EARLIER ONES
PEGGY POOR ALLEN

13:32 EST

MGMCOMP MGM

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645

western union Mailgram

4-020051S055002 02/24/82 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT FT LAUDERDALE FL 02-24 1229P EST

P POOR
700 SOUTHWEST 4 PLACE
FT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FT LAUDERDALE FL 52 02-24 1229P EST
ZIP
RUDOLPH GIULIANI
ASSOCIATE ATTORNEY GENERAL
U.S. DEPT OF JUSTICE
WASHINGTON DC 20530
EXTORTIONIST IRS AGENT IS KAYE B MORRIS OF FT LAUDERDALE. REQUEST INSTRUCTIONS FOR SIGNING CRIMINAL COMPLAINT AGAINST HER UNDER 18USC 872, 875, 876, 241 AND 26USC 7214 PLEASE CONFIRM
SIGNED PEGGY POOR
700 SOUTHWEST 4 PLACE
FT LAUDERDALE FL 33312

13:05 EST

MGMCOMP MGM

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645

western union Mailgram

4-020497S055002 02/24/82 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT FT LAUDERDALE FL 02-24 1234P EST

P POOR
700 SOUTHWEST 4 PLACE
FT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FT LAUDERDALE FL 76 02-24 1234P EST
ZIP
JUDGE NORMAN C ROETTGER
U.S. DISTRICT COURT
299 EAST BROWARD BLVD
FT LAUDERDALE FL 33301
SENDING FOLLOWING MAILGRAM TO ASSOCIATES ATTORNEY GENERAL RUDOLPH GIULINI

EXTORTIONIST IRS AGENT IS KAYE B MORRIS OF FT LAUDERDALE. REQUEST INSTRUCTIONS FOR SIGNING CRIMINAL COMPLAINT AGAINST HER UNDER 18USC 872, 875, 876, 241 AND 26USC 7214 PLEASE CONFIRM.

WISH TO NAME MORRIS AS A DEFENDANT IN 81-6358 PLEASE ADVISE
SIGNED PEGGY POOR ALLEN
700 SOUTHWEST 4 PLACE
FT LAUDERDALE FL 33312

13:06 EST

MGMCOMP MGM

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645

western union Mailgram

4-043996S053002 02/22/82 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT FORT LAUDERDALE FL 02-22 0425P EST

PEGGY POOR
700 SOUTHWEST 4 PL
FORT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FORT LAUDERDALE FL 59 02-22 0425P EST
ZIP
RUDOLPH GIULIANI ASSOC ATTY GENERAL
U S JUSTICE DEPT
WASHINGTON DC 20530
AGAIN PREPARED TO SIGN CRIMINAL COMPLAINT WITH SUPPORTING DOCUMENTS AGAINST UNIDENTIFIED IRS PUBLIC SERVANTS AGAIN USING U.S. MAILS IN ATTEMPTED EXTORTION OF AMOUNTS IRS HAS TWICE ADMITTED IN WRITING ARE NOT REPEAT NOT DUE. PLEASE ADVISE PROCEDURE

PEGGY POOR
700 SOUTHWEST 4 PL
FORT LAUDERDALE FL 33312

16:26 EST

MGMCOMP MGM

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645

4-044898S053002 02/22/82 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT FORT LAUDERDALE FL 02-22 0434P EST

PEGGY POOR ALLEN
700 SOUTHWEST 4 PL
FORT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FORT LAUDERDALE FL 114 02-22 0434P EST
ZIP
JUDGE NORMAN C ROETTGER
U S DISTRICT CT
299 EAST BROWARD BLVD
FORT LAUDERDALE FL 33301
SENDING FOLLOWING MAILGRAM TO ASSOCIATE ATTY GENERAL RUDOLPH GIULIANI

AGAIN PREPARED TO SIGN CRIMINAL COMPLAINT WITH SUPPORTING DOCUMENTS AGAINST UNIDENTIFIED IRS PUBLIC SERVANTS AGAIN USING U.S. MAILS IN ATTEMPTED EXTORTION OF AMOUNTS IRS HAS TWICE ADMITTED IN WRITING ARE NOT REPEAT NOT DUE. PLEASE ADVISE PROCEDURE

EXTORTION THREAT RECEIVED TODAY CONTINUES HARRASSMENT AND LIBEL CHARGED IN SECTIONS 32-37 OF AMENDED COMPLAINT 81-6358 FILED NOVEMBER 20 AND SHOULD BE INCLUDED IN EVIDENCE. GRAVAMEN IS EXPOSURE OF COLLECTIVIST TOTALITARISM THREATENING USA WITH SAME PLIGHT AS EAST GERMANY. PLEASE ADVISE

PEGGY POOR ALLEN
700 SOUTHWEST 4 PL
FORT LAUDERDALE FL 33312

16:35 EST

MGMCOMP MGM

MIDDLETOWN, VA. 22645

western union Mailgram

4-0590185328002 11/24/81 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT FT LAUDERDALE FL 11-24 0721P EST

PEGGY P. ALLEN
700 SOUTHWEST 4 PL
FT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FT LAUDERDALE FL 44 11-24 0721P EST
ZIP
DUVAL COUNTY STATE ATTORNEY
DUVAL COUNTY COURTHOUSE
JACKSONVILLE FL 32201
PREPARED TO SIGN CRIMINAL COMPLAINT WITH SUPPORTING DOCUMENTS SHOWING ATTEMPTED EXTORTION BY F. SUE SAMPLER, INTERNAL REVENUE SERVICE IN JACKSONVILLE. PLEASE ADVISE PROCEDURE.

PEGGY P. ALLEN
700 SOUTHWEST 4 PL
FT LAUDERDALE FL 33312

19:23 EST

MGMCOMP MGM

MIDDLETOWN, VA. 22645

4-056900S328002 11/24/81 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT FORT LAUDERDALE FL 11-24 0644P EST

PEGGY POOR

700 SOUTHWEST 4 PLACE

FORT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FORT LAUDERDALE FL 59 11-24 0644P EST
ZIP
RUDOLPH GIULIANI, DEPUTY
ASSISTANT ATTORNEY GENERAL
U.S. DEPT OF JUSTICE
WASHINGTON DC 20530
PREPARED TO SIGN CRIMINAL COMPLAINT WITH SUPPORTING DOCUMENTS UNDER 18 USC 872, 875, 876, 241 AND 26 USC 7214 AGAINST F. SUE SAMPLER OF INTERNAL REVENUE SERVICE JACKSONVILLE FLORIDA AND UNKNOWN OTHERS. PLEASE ADVISE PROCEDURE SOONEST,
PEGGY POOR

700 SOUTHWEST 4 PLACE

FORT LAUDERDALE FL 33312

18:46 EST

MGMCOMP MGM

MIDDLETOWN, VA. 22645

western union Mailgram

4-061368S328002 11/24/81 ICS IPMMTZZ CSP MIAB
1 3054628047 MGM TDMT~FT LAUDERDALE FL 11-24 0814P EST

PEGGY POOR
700 SOUTHWEST 4 PLACE
FT LAUDERDALE FL 33312

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3054628047 MGM TDMT FT LAUDERDALE FL 92 11-24 0814P EST
ZIP
JUDGE NORMAN C ROETTGER
U S DISTRICT COURT 299 EAST BROWARD BLVD
FT LAUDERDALE FL 33301

RESPECTFULLY REQUEST YOUR INSTRUCTIONS HOW TO LIMIT COMPLAINT AS YOU ORDERED WHEN DEFENDENTS' VIOLATIONS CONTINUING. TODAY RECEIVED VIA U.S. MAIL ANOTHER EXTORTION THREAT FOR AMOUNT ALREADY PAID MORE THAN A YEAR AGO AS PROVED BY CANCELLED CHECK AND IRS NOTICE THAT BALANCE DUE IS "NONE". REFERENCE SECTIONS 32 THROUGH 37 AMENDED COMPLAINT FILED NOVEMBER 20. THIS LATEST PERSECUTION SHOULD BE INCLUDED IN 81-6358. PLEASE ADVISE

PEGGY POOR ALLEN
700 SOUTHWEST 4 PLACE
FT LAUDERDALE FL 33312

20:17 EST

MGMCOMP MGM

WITH CORRECTING THE ACTIONS OF INDIVIDUAL PROTESTERS IN THE CONTEXT OF THEIR OWN PARTICULAR TAX CIRCUMSTANCES, THE CORE PROBLEM WE FACE IS THE POTENTIAL FOR FRUSTRATIONS WITHIN THE TAX SYSTEM.

I SHOULD ADD IMMEDIATELY THAT THE IRS DIFFERENTIATES BETWEEN LEGAL AND ILLEGAL TAX PROTESTERS. ALL CITIZENS HAVE THE RIGHT TO EXPRESS CRITICISM OF THE TAX SYSTEM AND GOVERNMENT POLICIES RELATED TO IT, AS WELL AS TO JOIN GROUPS WHICH EXPRESS SUCH CRITICISMS. NOTHING THE SERVICE HAS DONE OR IS DOING IS DIRECTED AT SUPPRESSING THIS DISSENT. HOWEVER, ONCE AN INDIVIDUAL MOVES FROM EXPRESSING DISSATISFACTION TO ACTUALLY EMPLOYING SCHEMES WITH THE INTENTION OF EVADING TAXES, THE SERVICE HAS AN OBLIGATION TO BECOME INVOLVED IN ORDER TO PROTECT THE GOVERNMENT'S REVENUE BASE AND TO PRESERVE THE TAX SYSTEM.

This is NOT true

IRS Documents Prove "Enemy Lists"

THE EFFORTS OF THE SERVICE TO ASSESS AND COLLECT TAXES FROM THESE INDIVIDUALS HAVE NOT BEEN EASY. WE HAVE BEEN TOLD BY SOME THAT OUR EFFORTS HAVE BEEN INSUFFICIENT; THAT WE SHOULD BE MORE AGGRESSIVE. OTHERS HAVE CHARGED THAT OUR EFFORTS AMOUNT TO HARASSMENT AND ARE VIOLATIONS OF INDIVIDUAL RIGHTS. THESE CONTRADICTORY AND CONFLICTING CHARGES ARE MADE MORE DIFFICULT BY THE PROHIBITION IN SECTION 6103 ON PROVIDING INFORMATION ABOUT OUR DEALINGS WITH TAXPAYERS. THUS WHEN WE ARE ACCUSED OF NOT PROSECUTING A PROTESTER THAT CLAIMS NOT TO BE PAYING TAXES, WE OT DIVULGE (WITHOUT APPROPRIATE CONGRESSIONAL APPROVAL) WHETHER NOT HE OR SHE HAS ACTUALLY PAID TAXES OR THE STATUS OF ANY ON-GOING INVESTIGATION. WHEN WE ARE CHARGED WITH HARASSMENT, AS IN

8-C Sentinel Star, Tuesday, October 21, 1980

IRS officer says abusive tactics used to collect

Associated Press

JACKSONVILLE — Due to tremendous pressure to collect overdue taxes, Internal Revenue Service officers in Florida resort to harassment and threats that are in violation of IRS policy, a six-year IRS veteran has charged.

IRS officer John Wilkes, 35, told the St. Petersburg Times he wanted to go public about the alleged abuses even though it could cost him his job.

Wilkes, who has worked three years with the special procedures section at Florida's IRS headquarters here, said he has witnessed repeated abuses of taxpayers by the 275 revenue officers whose work he reviews.

In one case, Wilkes said, an officer under pressure from his group manager filed a levy action against a divorcee that forced her employer to pay most of her salary to the government for back taxes, leaving her $65 a week to support herself and her child.

"The group manager absolutely refused to release the levy with the rationale that, 'We've got over 1,000 cases and we can't be concerned with this kind of thing,'" Wilkes said.

Over the strong protest of the group manager, Wilkes said he managed to lift the levy.

"My opinion is that not only should we release the levy but we should refund every dollar collected under it," he said.

The problem, Wilkes said, is that one criterion for promotion within the IRS is the speed with which "over-aged" cases, those a year or more old, are settled or closed.

"The revenue officers are being told, 'Just close that case no matter what, just close it,'" said an officer who requested anonymity. "It is insidious ... Everybody feels it."

District IRS Director Charles DeWitt defends the emphasis placed on closing "over-aged" cases. He said the backlog of such cases has been cut in half at his office in recent years, bringing it well below the national average for IRS offices.

Bruce Strauss, head of the collection division, conceded that officers sometimes threaten people with jail or the loss of their homes even though they aren't supposed to use such tactics.

Wilkes said a common way to close a case involves declaring it uncollectible and simply writing it off. Although there are ways to collect the money later, he claimed they are rarely used.

DeWitt said 4,783 cases, about 18 percent of those closed by the revenue officers last year, were written off as uncollectible. That percentage, he said, is not high when compared to the rest of the country.

DeWitt said Florida's revenue officers do a good job of classifying cases and obtaining payment when possible.

But Wilkes disagreed.

"They're not interested in looking at cases one by one," Wilkes said. "They just use the shotgun approach: Clear them out."

[NOTE TO READER: Additional materials retained in subcommittee files.]

May 21, 1982

RECEIVED

MAY 28 1982

Ways and Means
Subcommittee on Oversight

Congressman Charles Rangel
Ways and Means Oversight Subcommittee
Room 1101 Longworth
HOB
Washington, D.C. 20515

Congressman Rangel:

We request that this material and information be included in the hearing record. We hereby give our authorization in order that these items might be entered into a public document.

We further authorize the IRS to respond to complaints as described in our letters and also to specific questions that we have laid out in our letters.

In Freedom,

Jerry D. Prichard

Marsha Prichard

Jerry and Marsha Prichard
625 Cedar Mt.
Craig, Colorado 81625

STATEMENT OF JERRY. D. PRICHARD-

REGARDING I.R.S. ABUSES

Federal income taxes were withheld from my W-4 (claimimg single and one) for the year 1979. In October of 1980, I received an I.R.S. notice stating I owed an additional $1,240. When I denied this assessment and questioned their determination, my troubles began.

I received the I.R.S.'s routine form letters and phone calls, of which I questioned and responded to each and every one without receiving any type of answer at all from the I.R.S.

The issue of the amount that I allegedly owed has never really been settled. The figure went from $1,240. (Form 4549) on October 16, 1980 and progressed up steadily until it reached $2,293. (Form 4089) on December 15, 1980. On April 16, 1981, just four months later, the assessment dropped to $2,048.31(Form 3552) and on April 29, 1981, the new figure was even lower $2019.19 (Form 668). On May 8, 1981, after the I.R.S. seized my checking account, the amount began to rise again (Form 668A-Notice of Levy) $2073.12. The assessment on June 24, 1981, was $2112.42 (Form 668B). On June 25, 1981, our mobile home and the ONLY vehicle we owned was seized to satisfy an amount that,to this day,I deny that I ever owed. I.R.S. agent, David Lambert, sent a Sealed Bid Sale Notice to us on June 29, 1981, stating as a minimum bid for our 1978 Trans Am of $2,287.42. (Form 2434A). We were also presented with a Seizure and Sale Worksheet (Form 4585) in which the I.R.S. agent apparently doubles as an assessor when he can place any price he wants on a car valued at an easy $6000. on any lot in town by a professional car dealer.

The I.R.S. stated,in the Legal Notice they placed in the newspaper, that there was clear title to our car. This was not true. Between the date of seizure and the date of sale, my wife and I made several attempts to notify and convince the I.R.S. of an existing mortgage on our car. They refused to listen and nearly had me arrested by the Craig City Police for trespassing in a public I.R.S. office simply because I arrived at an appointment I had made with them carrying a tape recorder and in the company of witnesses(this statement is supported by taped recording and the witness of my Father, Brother and his friend.) We then resorted to taking out our own Legal Notice in the same paper, warning prospective buyers about the mortgage. On July 24, 1981, our car was sold for $4,387.98 to an Evan Weaver-1515 West 3rd Ave., Durango, Colorado 81301. Nothing was said to us,the day of the sale, about the excess that had been collected or what would become of the lien and seizure notice on our home. After five days, we sent a letter to the I.R.S. office,in Denver, demanding the excess money they had collected and that the Federal liens be lifted from our home immediately. Again, we were ignored by the I.R.S. It wasn't until some time after the sale of our car that we became aware of the I.R.S. Pubilcation 586A-which should have accompanied the I.R.S. 10-Day Notice to us in June, but which we never received. According to their own publication, IV. Enforced Collection Policy under section A it states:

> A Federal Tax Lien will be released when the tax due (including interest and other additions to the tax) has been fully satisfied by payment or adjustment.

OUR LIEN, ACCORDING TO THE IRS'S OWN RULES,SHOULD HAVE BEEN REMOVED ON JULY 24, 1981—IT WAS FINALLY LIFTED ON DECEMBER 28, 1981(and we discovered this only by accident, we were never officially informed of this action,even though we had been demanding it for five months)

IV. Enforced Collection Policy under section C states:

> When sale proceeds exceed the tax bill and expenses of levy and sale, the surplus money is held by I.R.S. pending a request for distribution. Unless a person, such as a mortgagee or other lienholder, submits a claim superior to yours, these excess funds will be credited or refunded to you upon request.

OUR REQUEST FOR REFUND OF THE EXCESS MONEY WAS MADE ON JULY 29, 1981. DISTRICT DIRECTOR, G.L. MIHLBACHLER, IN A LETTER TO SENATOR WILLIAM ARMSTRONG, STATES THAT OUR LETTER TO THE IRS OFFICE WAS IN FACT AN ACCEPTABLE FORM OF FILING FOR REFUND. SURPLUS PROCEEDS IN THE AMOUNT OF $2,032.35 SHOULD HAVE BEEN OURS ON THE DATE THE IRS RECEIVED- NO LATER THAN THE FIRST WEEK IN AUGUST. ON, OR ABOUT FEBRUARY 23, 1982, WE RECEIVED A U.S. TREASURY CHECK FOR $1,560.52 OF THE MONEY RIGHTFULLY OWED TO US. THE IRS HAD TAKEN IT UPON THEMSELVES TO HOLD THE EXCESS CASH FOR A FULL SEVEN MONTHS.

VI. Rights under section C states:

> You will receive interest at the rate of 6 percent a year up to January 31, 1980, and at the rate of 12 percent a year after that on any refund delayed more than 45 days after either the filing of your return or the due date of the return, whichever is later.

WE RECEIVED NO INTEREST ON $2,032.35 IN IRS POSESSION FOR SEVEN MONTHS.

And finally, under section J of Rights it states:

> You have the right to refuse to permit Collection personnel to enter upon your private property when the purpose of the visit it to conduct a seizure of your assets. If you decide to avail yourself of this right, the IRS may then decide to seek court authorization to enter upon the property to carry out the seizure action.

OUR HOME IS OUR PRIVATE PROPERTY - IRS AGENTS CAME IN OUR ABSENCE AND ATTACHED A SEIZURE NOTICE TO OUR DOOR. OUR CAR WAS OUR PRIVATE PROPERTY - WHEN MY WIFE ASKED TO SEE A SIGNED COURT ORDER GRANTING THE IRS AGENTS THE RIGHT TO TAKE OUR ONLY MEANS OF TRANSPORTATION FROM HER AS SHE SHOPPED, SHE WAS TOLD BY AGENT LAMBERT THAT HE "WASN'T CONCERNED WITH THE COURTS". BOTH MY WIFE AND I HAD FULL TIME JOBS AND MY WIFE, BEING PREGNANT, HAD AN ADDITIONAL NEED FOR TRANSPORTATION TO AND FROM THE DOCTOR'S OFFICE AND HOSPITAL. THE IRS HIT US WHERE IT WOULD HURT THE MOST, ASSUMING THAT WE WOULD GIVE IN AND COMPLY; THAT I WOULD PAY A TAX THEY REFUSED TO EXPLAIN TO ME HOW THEY HAD DETERMINED THAT I OWED.

Nearly a year has passed since the seizure and sale of our Trans Am. My credit has been destroyed and the banker holding the mortgage to our car is threatening and very well may have begun court action against me at this time. I have had to appeal to the Court, myself, in an effort to seek justice and understanding regarding the IRS activity of last summer. They didn't even play by their own rules let alone function under or respect my rights as a free citizen under the Constitution. I have spent considerably more than the belated refund check attempting to get the IRS to simply answer my questions. For this I have been labeled a "Tax Protestor" by the IRS and the local newspaper. I find dealing with harassment and verbal abuse on the job and in the community a daily part of living now. On the 9th of September, 1981, there were seventy-one levies and/or liens filed and recorded in the Moffat County Courthouse against Craig area people - yet only nine of these seventy-one were actually enforced for collection. I happened to be one of the nine who still believes I have the right to know WHY something is being done to me and by whose authority. While the IRS has done its best to use me as an EXAMPLE to anyone else who may doubt or question its power, I stand unbended - clinging to the belief that the Constitution remains the Supreme Law of the Land...That, as stated in my birthright, I have the right to speak freely--to assemble peaceably and to petition the Government for a redress of grievances. I also have the right to be secure in my person, houses, papers, and effects against unreasonable searches and seizures. My home, my car and my bank account were seized, without a Court order, for an alleged $2,112.42.

The IRS claims that the Court has no jurisdiction over it; then who does?

In Freedom,

Jerry D Prichard

Jerry D. Prichard
625 Cedar Mt.
Craig, Colorado 81625

AFFIDAVIT

STATE OF IOWA)
) SS:
County of Monona)

I, Stewart Prichard, being of lawful age and first duly sworn upon oath, depose and state as follows:

1. That my name is Stewart Prichard. I am a rural resident of Monona County, Iowa and a natural-born sovereign individual, and a citizen of the State of Iowa, Union of the States of America.

2. That at approximately 3:30 P.M. on the day of July 20, 1981, I accompanied my son, Jerry D. Prichard, to the office of the Internal Revenue Service in Craig, Colorado.

3. That my son, Jerry D. Prichard, had in his possession copies of the Legal Notice of Sale, placed in the local newspaper by the I.R.S., in which they advertized the 1978 Trans Am they had seized from him on June 25, 1981, as having clear title.

4. That my son, Jerry D. Prichard, had requested this meeting in order to inform the local agents of the I.R.S. personally that a mortgage did exist against the vehicle they had seized from him, and that there was no clear title.

5. That my son, Jerry D. Prichard, had placed an ad in the same newspaper, as a warning to the public, denying the existance of clear title on his vehicle and that his wife had called to tell the local agents this same fact on at least two occasions, yet the I.R.S. continued to XXXXXXXXXX advertise the Trans Am despite the efforts of my son and daughter-in-law.

6. That my son, Jerry D. Prichard, took an hour off from work on the day of July 20, 1981, necessitated by the local I.R.S. office schedule, in order to clarify the issue of his having no clear title to the 1978 Trans Am.

7. That upon seeing my son, Jerry D. Prichard, arrive with witnesses and a tape recorder, I.R.S. agents, Glen Seward and Dave Lambert, immediately cancelled the appointment and demanded that we leave the building.

8. That when my son, Jerry D. Prichard, questioned this action, agent Lambert called the city police to remove us from the I.R.S. office.

9. That my son, Jerry D. Prichard, did notify city policemen, Lt. Craig and Capt Sherman, of his intention and kept orderly while we were escorted from the public building.

10. That item 9 (nine) of this affidavit can be supported by taped recording.

FURTHER AFFIANT SAITH NOT.

DATED this 15th day of March, 1982.

Stewart F Prichard
Stewart Prichard
Rt. 1
Hornick, Iowa 51026

SUBSCRIBED AND SWORN TO before me this 15th day of March, 1982.

NOTARY PUBLIC

AFFIDAVIT

STATE OF COLORADO)
) SS:
County of Moffat)

I, Jerry D. Prichard, being of lawful age and first duly sworn upon oath, depose and state as follows:

1. That my name is Jerry D. Prichard. I am a resident of Craig, Colorado and a natural-born sovereign individual- a citizen of the Republic of Colorado, Union of the States of America.

2. That on the day of July 20, 1981, at approximately 3:30 P.M., I, in the company of witnesses, went to the local IRS office,at 439 Breeze Street, Craig, Colorado, to meet with agent David Lambert concerning the fact that a clear title did not exist to our vehicle that the IRS had seized.

3. That I had with me a copy of the Legal Notice of Sale the IRS had placed in the Craig newspaper, the Daily Press, in which they advertized my 1978 Trans Am as having clear title.

4. That I had in my records the copy of a Promissory Note from my bank proving that a mortgage did exist on the same 1978 Trans Am.

5. That my wife, Marsha Prichard, and I tried more than once to straighten this matter out, including running our own Legal Notice in the newspaper contradicting the IRS claim to clear title, and were consistently ignored.

6. That I had requested this meeting with agent Lambert as yet another attempt to inform him and clarify the issue of the title; even though I had to forfeit an hour's wages in order to be in his office before it closed.

7. That, when I entered the IRS office carrying a tape recorder and in the company of witnesses, IRS agents Glen Seward and David Lambert cancelled my appointment immediately .

8. That, when I asked for an explanation, the city police were summoned to remove us from the IRS office.

9. That I, Jerry D. Prichard, had received numerous assessments for varying amounts (some higher and some lower than the one that preceded it) prior to the sale of our Trans Am.

10. That the amount received by the IRS for the sale of our car was in excess of the tax I allegedly owed for the year 1979. Yet, on Sept. 5, 1981, I received a 10-day warning notice from an agent E.G.Smith in his attempt to collect my alleged 1979 taxes for a second time.

11. That I have studied the Constitution many times and cannot find anything in it that would justify the procedure of seizure.

12. That the Form 586A that was to have accompanied the 10-Day Notice from the IRS was never received by us from them. However, having read this publication only recently, I maintain that I did not willingly or knowingly give up any of my rights under paragraph J on page 4.

page 2 of 2

13. That on April 12, 1982, we received the letter, forwarded to us, Jerry and Marsha Prichard, from Senator Armstrong's office - written to him by District Director of The Internal Revenue Service, G.L. Mihlbachler, in response to Senator Armstrong's questions regarding our situation.

14. That Mr. Mihlbachler states the procedure we followed of filing for the return of the excess money collected from the sale of our car via a letter, sent July 29, 1982, was an acceptable method of stating a claim.

15. That it took almost eight months for the IRS to return only a portion of the excess cash they collected for our car.

16. That, to this day, aside from the letter written to Senator Armstrong, we have received no notice from the IRS that the liens and seizures have been removed from our property.

FURTHER AFFIANT SAITH NOT.

DATED this 13th day of April, 1982.

Jerry D Prichard

SUBSCRIBED AND SWORN TO before me this 13th day of April, 1982.

NOTARY PUBLIC

Commission expires: June 15, 1982

Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longsworth H. O. B.
Washington, D. C. 20515

May 26, 1982

JUN 1 1982
[illegible] SUBCOMMITTEE

REQUEST TO BE HEARD

My name is: Edward F. Ross, a self-employed American individual and I am writing on behalf of myself. My address is: 1646 Beacon Av. - Anaheim, CA. 92802; phone - (714) 533-0610 .

FACTS OF MY COMPLAINT

After repeatedly asserting my 4th and 5th Amendment rights of the U.S.Constitution, and after repeatedly requesting immunity (18 USC 6004) in reply to questions from Revenue Agent Tom Donovan of the Santa Ana, California office of the IRS - questions purportedly having to do with a so-called "field audit" of my 1978 and 1979 tax returns (in which I initially asserted and stated my Constitutional rights), agent Donovan finally resorted to a blatant lie which he uses to threaten, harrass and intimidate me.

This lie (as evidenced in the enclosed copy of correspondence between myself and agent Donovan), if believed by our District Court, could have the effect of wrongfully disobeying a court order. This lie is being used to threaten me as evidenced in the final paragraph of agent Donovan's letter to me dated 5-18-82. He is attempting to coerce me to relinquish my constitutional rights and give him testimony or information which can be used against me; the coercion element of this last paragraph is more readily discernable when one absorbs the fact that"commencing contempt proceedings" is or should be sufficient to make his point if he had solid foundation; but he ALSO threatens to notify my Probation Officer of alleged "disobedience of a Court order" which has not been proven. The mere utterance of such a statement may cast a cloud over my integrity and such actions by the IRS should not be tolerated..

I trust and pray that this Subcommittee will be successful in restoring proper tax collecting methods; methods which do not circumvent my unalienable rights as re-iterated in the U.S.Constitution !

Sincerely,

Edward F. Ross
Edward F. Ross

CERT. MAIL #186834

HAND DELIVERED 5/19/82 [illegible]

Internal Revenue Service

District
Director

Department of the Treasury
Internal Revenue Service
34 Civic Center Plaza
Santa Ana, CA 92712

Person to Contact: Tom Donovan

Telephone Number: (714) 836-2831

Refer Reply to:

Date: May 18, 1982

Mr. Edward F. Ross
924 N. Euclid
Anaheim, CA 92801

Dear Mr. Ross:

You appeared at our office in Santa Ana, California, on March 26, 1982 as ordered by the District Court (Judge Robert M. Takasuki). However, you failed to comply with the Court's order because you failed to produce the documents which the Court ordered you to produce. You stated you did not bring the materials as ordered by the Court because you did not have sufficient time to gather them.

Over a month has elapsed since our last meeting. It appears that you now have had sufficient time in which to gather the records the Court ordered you to produce. Therefore, we have scheduled another meeting to allow you to produce the Court ordered documents. This meeting is scheduled for May 27, 1982, at 8:30 A.M. at our office located at 34 Civic Center Plaza, Room 314, Santa Ana, California.

Please be advised that if you fail to produce the documents the Court has ordered you to produce, we will request, the U.S. Attorney's office to commence contempt proceedings against you, as well as notify your Probation Officer of your disobedence of a Court order.

T. Donovan
T. DONOVAN
Internal Revenue Agent

Copy to: Jeff Varga, Ass't. U.S. Attorney

Edward F. Ross
1646 Beacon Av.
Anaheim, Calif. 92802

Internal Revenue Service
34 Civic Center Plaza
Santa Ana, Calif. 92712

May 25, 1982

Attn: Tom Donovan, Revenue Agent

Dear Mr. Donovan:

In reply to your letter dated 5-18-82, I must say I am flabergasted to say the least, at your attempt to state a bold lie and use that lie to threaten, harrass and intimidate me!

In your letter you state that I stated that I "did not have sufficient time to gather them" - refering to the documents in the court order.

Well, after reviewing the transcript of our meeting in your office on 3-26-82 at 1:30P.M., I am sorry to have to tell you that no-where at any time did I make the above statement! This fact will also be verified by the four (4) witnesses present at that meeting.

To refresh your memory, what I stated was: " I am not able to comply, because I do not have the documents in my possesion..."
I have enclosed a copy of the transcript, for your convenience, which you should recognize as being quite accurate.

Just for the record, I am re-stating here and now, categorically and specifically; I do not have the documents as requested in the court order in my possesion nor are they under my control ! And I will so state under oath if asked !

Edward F. Ross
Edward F. Ross

cc: Jeff Varga, Ass't U. S. Attorney
David Sano, Fed. Probation Officer

Enclosure

TRANSCRIPT OF MEETING AT IRS OFFICE
IN SANTA ANA, CALIF. - MARCH 26,'82

PURPOSE: TO COMPLY WITH JUDGE ROBT. M. TAKASUKI'S COURT ORDER OF MARCH 22,1982

RESPONDENT: EDWARD F. ROSS

WITNESSES: 1) JAMES ROSE 2) FRANK BROCKWAY 3) HILTON E. GARNER 4)A.J. PORTH

IRS AGENTS: TOM DONOVAN, REVENUE AGENT
DAN MULHOL,SUPERVISOR

* * *

ROSS: "WHAT CAN I DO FOR YOU, NOW,?........

DONOVAN: "Well, YOU know what you're suppposed to bring"...................
..you're s'posed to bring your bank statements for the years '78 and '79....."

ROSS: "I STILL WANT TO ASK A COUPLE OF QUESTIONS OF YOU, AND THAT IS, IF I HAD THEM IN MY POSSESION, CAN THEY BE USED AGAINST ME IF I ADVANCED THEM? "

DONOVAN: "THE COURT HAS RULED ON IT; THERE'S NO DECISION......YOU HAVE TO TURN THESE OVER TO US,.. IF YOU DON'T HAVE THEM, THEN YOU'LL HAVE TO EXPLAIN TO THE COURT,..

ROSS: "BUT YOU'RE NOT WILLING TO STIPULATE WHETHER THEY CAN BE USED, AT THIS TIME, AGAINST ME,..IN SOME FUTURE PROCEEDINGS? IF I HAD THEM?

DONOVAN: "THEY'RE GOING TO BE USED TO DO A REGULAR TAX EXAMINATION."

ROSS: "AND THEY'RE NOT USED FOR EVIDENCE IN ANY OTHER POSSIBILITY?"

DONOVAN: "I DON'T KNOW WHAT YOU MEAN BY EVIDENCE."

ROSS: "WELL,..EVIDENCE; EVIDENCE IS QUITE SELF EXPLANATORY; EVIDENCE IS EVIDENCE."

DONOVAN: "ARE YOU ASKING ME IF ITS GOING TO BE USED IN A CRIMINAL INVESTIGATION?"

ROSS: "AMONGST OTHERS, YES!"

DONOVAN: "WELL...... EXCUSE ME A MOMENT" (HE LEAVES THE ROOM MOMENTARILY)

* * *

(DAN MULHOL IS BROUGHT INTO THE ROOM, INTRODUCED AND IDENTIFIED)

* * *

MULHOL: "THERE IS REALLY ONLY ONE QUESTION I SEE HERE; TOM HAS EXPLAINED TO ME,.. IS THE INFORMATION AVAILABLE TODAY?"

ROSS: "I ASKED HIM A QUESTION WHICH HE WASN'T WILLING TO ANSWER, AND THAT IS, IF I HAD THE INFORMATION AVAILABLE AND IF I DID PRODUCE IT, COULD IT BE USED AGAINST ME IN ANY FUTURE PROCEEDINGS?"

MULHOL: "THE INFORMATION IS NECESSARY IN ORDER TO CONDUCT A FIELD EXAMINATION; - THAT'S WHAT THE INFORMATION IS REQUESTED FOR; I UNDERSTAND YOU HAVE BEEN ORDERED BY THE COURT TO PRODUCE THE INFORMATION?"

TRANSCRIPT (Con't.)

ROSS: " IF I had it, yes."

MULHOL: " Do you have the information today?"

ROSS: " I wanted to first know, IF I had it....................

MULHOL: "Do you have the information today?"

ROSS: " I do NOT have the information in my possesion."

MULHOL: " You were to have the information here by 4:45P.M......"

ROSS: "I am not able to comply, because I do not have the documents in my possesion."

MULHOL: " Are you going to comply with the court order?"

ROSS: " I AM complying with the court order by appearing here!"

MULHOL: "...O.K............we need the information; without the information, there's no point in going on today;.............
..........supply us with the information....

ROSS: **"Have you ever asked me if I HAD the documents?"**

MULHOL: " Do you have the documents?"

ROSS: " I don't have the documents!"

MULHOL: "........................... ....
....

DONOVAN: ....

DONOVAN: "I'll send a report to the U.S. Attorney;at this time, and this date you did not have the documents and they'll report it back to the Judge..........

ROSS: "You can report that I do not have them in my possesion.

DONOVAN: ".......()....I'll mention that you did not submit the information to me as you were required to by the court; I don't know if they're in your possesion or not; I can only say - you did not submit; and let the judge then decide what............"

ROSS: "Alright, that's fine with me.......... "

DONOVAN: "That takes care of the meeting........"

MULHOL: " O. K. "

Faith Baptist Church
Fifth and Elm Streets
Louisville, Nebraska 68037

PASTOR: EVERETT SILEVEN

PHONE: 402-234-3435

RECEIVED
APR 16 1982
Ways and Means
Subcommittee on Oversight

April 13, 1982

Subcommittee on Oversight
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth
H.O.B.
Washington, D.C. 20515

TESTIMONY CONCERNING I.R.S. PROCEEDURES

My testimony is in opposition to any I.R.S. proceedures which would give the I.R.S. the right to tax salaries, wages and compensation. The United States Supreme Court has held in three cases that a man's wages for his work is not taxable. The I.R.S. is unconstitutional in all of its regulations concerning the taxing of a man's wages. The I.R.S. should not have the power to assess a man's bank account or leans on his property without due process law and that does not mean a tax court.

We highly favor the elimination of personal income taxes. Maybe the value added tax could substitute for it, but a man's salary, wages and compensation under contract with his employer should in no way be subject to taxation. The United States Constitution even in Article 16 does not allow for that. Therefore my testimony that the entire process and proceedure of tring to get money from a man's wages and salaries is unconstitutional and therefore should be immediately stopped by the congress.

Sincerely,

Everett Sileven, Pastor of
the Faith Baptist Church, Louisville, Nebraska
Chairman of the Moral Majority of Nebraska

ES:DP

cc: J. J. Exon, Senator
Edward Zorinsky, Senator
Hal Daub, Congressman

RECEIVED

APR 29 1982

Ways and Means
Subcommittee on Oversight

294 Litchfield Rd., RR 3
New Milford, Conn. 06776
April 20, 1982

Charles B. Rangel, Chairman
Subcommittee on Oversight
1102 Longworth House Office Bldg.
Washington, D. C. 20515

APR 27 1982

CATS:
PARA:
COMMENTS:

Dear Representative Rangel:

For the years 1976 and 1977, my husband, Mr. Alton W. Wheeler of the above address filed the Fifth Amendment return for Federal Income taxes after he started realizing that the income tax did not really apply to him personally as a freeborn American. Because of this awakening on his part today, and because he realized that the Federal District Court in Hartford, Conn. had no lawful jurisdiction over him, he was incarcerated on $25,000.00 bail bond (violation of Amendment VIII!) in the Federal Correctional Facility in Danbury, Conn., on March 25, 1982. He was placed in an area that is reserved for the punishment of convicts who disobey rules and is allowed no exercise out-of-doors at all! He is only allowed under one hour's time out of his cell per day, with very little allowance for any exercise, and he has no access to any telephone that would permit him to call his home at all! All this cruel and inhumane treatment because he is aware of his Constitutional rights and is striving to exercise them! So much for American justice today! It is altogether **INJUSTICE** to say the least! Alton may as well be living in Soviet Russia today, for clearly there is now very little difference! By highly suspect and questionable standards of trial proceeding, Al was supposedly convicted of willful failure to file on April 14, 1982, as per Title 26, 7203 on an IRS criminal information filed against him by a U. S. Attorney, a paper that bypassed his right (under the Fifth Amendment!) to an indictment by a Grand Jury. In VanLiew v. U.S. Fifth District Case 321 F2D664, p. 669, the Supreme Court held that the Grand Jury System was adopted to prevent "hasty, malicious, and oppressive action by the government," and that the purpose of the Grand Jury was to protect the citizen against such unfounded charges as have been forced against Alton Wheeler in this case! The Defendant also requested the government to clearly show him the specific law that he had violated, but the government never did!

When law degenerates to such a low level as this, it is no longer any law, but is lawlessness on the part of the government. Clearly, there is no longer any respect remaining for any of Alton's Constitutional rights, including the Fifth Amendment right to a Grand Jury Indictment before such atrocious punitive actions are pursued against him, as one sovereign freeborn American citizen among many who have been railroaded by a bureaucracy now running wild and unchecked! It becomes most obvious in light of such atrocities and miscarriages of real justice, that America and Congress have indeed forsaken all of the foundations of true justice from her past when her courts can now throw away the entire Constitution and established case laws built around it, in favor of highly suspect federal rules of criminal procedure such as Rule 7a of their oppressive federal statutes, in order to get a conviction on a tax protestor no matter what! The entire system has thrown all of Alton's rights to the wind and run roughshod over the man, which is nothing else but oppressive tyranny, corruption, and total anarchy, and is most abominable and disgusting and deplorable in every aspect!

The government at this point is only maintaining such a policy as a lawbreaker itself beyond all doubt whatsoever!

The Judge, Jose A Cabranes in Federal District Court at 450 Main St. in Hartford, Conn. 06103, most arbitrarily denied any relief to Alton by ignoring and then denying Al's claim for a Writ of Habeas Corpus, which must now be taken up on appeal. Hopefully the Second District Court of Appeals is not as corrupt yet as this district one is. God help us all if it is! Certainly there is enough reason to believe that the corruption is present all throughout, now! It is deplorable that the courts have now degenerated into such a situation, where they won't even consider the merits of a habeas corpus presented to them in open court. But it is also deplorable that such congresses as the present one only hold committee hearings on such abominable travesties of justice without ever really intending to carry through and correct the abuses of the IRS and other areas of government that now run so rampant throughout!

Any observer realizes that all respect for goodness and justice has died, and freedom is only an empty expression of memory and imagination when long established law is so brazenly forsaken! Congress and the Judiciary have demonstrated their ineffectiveness in sustaining justice and freedom by their actual ignorence and disrespect for the American heritage with all of its accompanying value and benefits.

Certainly also, the timing of this case for trial and conviction just before tax filing deadline of April 15th was by no means accidental either! It was all too obvious that the IRS needed another victim in order to further intimidate the populace at large to condescend to IRS tyranny and corruption and extortion for another year by paying these taxes, especially now at a time when so many people are awakening at last in a movement that is sweeping through the nation like wildfire against this fraudulent game of extortion in which the IRS has for years been indulging and gorging itself on the property of private, sovereign Americans! There is absolutely no doubt in our minds that my husband is only a political prisoner of war who has been singled out for particular persecution and prosecution for his outspoken defense of the American Constitution. When such as this can happen in America, then we know that much is wrong and needs correcting. The question today in my mind is whether any of you Congressmen care that this has happened and will see that it is quickly remedied. I hope that it is more than empty lip service that will be activated at this Committee hearing. We really would appreciate some substantial positive action at this time! If not, then truly all justice and freedom have been effectively displaced by oppressive tyranny now in America.

Please let me know your disposition of this letter, if you would kindly include it in your consideration of all of the IRS abuses of American taxpayers and their rights, in your committee report, at the very least!

Sincerely yours,

Mrs. Alton W. Wheeler

Mrs. Alton W. Wheeler

cc. Congressman George Hansen

RECEIVED
JUN 8 1982
Ways and Means
Subcommittee on Oversight

file
response

Dear Sir,

I would like to relate to you a few of the abuses the I.R.S. has done to me.

1. Under section 7428 (B) of the code, our church was defending our tax exemption, we had a hearing. Promised a second administrative hearing but never had a second hearing as promised by the code. I sued, wrote my senator and congreasman after discovering the I.R.S. faked a letter cancelling our tax exemption, and entered it into District Court records to be used in tax court. They were denying an administrative appeal and were even going to deny us the right to appeal to the District Court of Columbia.

2. After my senator and congressman joined in on their crookedness, letters went to flying back and forth. They changed their minds and decided they had made a mistake and were going to give us our appeal, right after getting caught faking evidence.

3. They set a date for the appeal, but I had to attend a trial and with no way of getting out af attending they agreed to cancel and set another date. We set a date agreeable to both parties and the day before the date I had a heart attack and open heart surgery. About a month later, while layin flat in bed, doped up on medicine, this agent called from Dallas Texas and said he was going to hold a hearing over the phone. I enformed him that I was in bed, doped up on medicine and unable to take part in the hearing, and that this was not legal according to the code. He knew that I could not enter evidence or present any witness over the phone. Since I could not do it at this hearing, he knew that I could not enter any evidence at a later date in a court of law. Later on a letter arrived stating our exemption had been cancelled.

4. The real bad part about the I.R.S. was sicing one of their finks on me. He made two phone calls to the White House stating I was involved with James Hincley to kill President Reagen. He bragged that he owed 4,000$ in taxes which was clear off his record. They were trying to railroad me into jail. He broke a Federal law, making false reports to the government. I tried to get this before a federal grand jury, no, even tried certified mail, no success. This is your I.R.S.! Where are my rights as a cicizen? I would like to testify, but hve no money to travel.

→ Please enter this into your records.

signed,

Foster S Wolfe
Foster S. Wolfe

Dear Sir,

I am writing to ou in regards to the action of one of your agents, in regards to the collection of taxes

1. He states the church of which I am a member of is responsible for my taxes.

2. That he is going to sue me for donating my property to the church and get it declared a fraud, and have it returned to me so he can seize it for taxes, he states.

3. This would be fine if he has had the constitution ruled null and void.

4. Article I, section 10, states," No one can pass any bill of attainer, ex-post facto law or law impairing the obligation of contracts.

5. In the year 1972, before any arguement with the government started, I signed a contract agreement to donate all my property that is in my name over to the church as it became free and clear of a mortgage. I discovered later that I could sign a quit claim deed, which I did in 1977. I paid off thr property and fulfilled my contract obligation. I have lived up to my vow of poverty and my contract with the church. Now he states that he is going to pass an ex post facto law and nulify the legal contract that I had with the church.

6. I have the letter written by District Director Hilhbacher to my Senator complaining about my deeding the property to the church. He was trying to imply that I had done something wrong by doing this act. He failed to mention the fact of a recorded contract which stated my good faith intentions of living up to it, which I completed fully. No arguement of taxes was in the picture in 1972.

7. Article IV, section 2, " The citizen of each state shall be entitled to all privaledges and immunities of citizens in several states." I am sure any court in the land would agree that I had the right to enter into a contract in 1972, which I did of my own free will. If I was trying to commit fraud, why did I not deduct the gift from my income taxes in the following years. The I.R.S. has committed fraud on me. After sending forms for about six times, they still claim I owe the self employment tax. The Treasury Department regulation states that anyone who has taken a vow of poverty does not have to pay this tax, yet they still claim I owe it. Now if this agent wants to go to court and nulify Article I, section 10 and Article V, section 1, we shall see at last if the constitution rules the country of if the I.R.S. does. Just think how great it would be if the constitution won and everyone knew about it. I am tired of this harrassment, intimidation and threats, and either this stops, or I will sue.

This statement is true/correct to the best of my knowledge, information and belief under penalty of perjury.

signed Foster S Wolfe
Foster S. Wolfe